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Friday
11th September, 1953

PARLIAMENTARY DEBATES

HOUSE OF THE PEOPLE

OFFICIAL REPORT

(Vol. iv contains no. 26-33)

(Part I—Questions and Answers)

PARLIAMENT SECRETARIAT
NEW DELHI

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THE
PARLIAMENTARY DEBATES
(Part I—Questions and Answers)
OFFICIAL REPORT

ACC. NO. 42204
Dated 24.11.201

HOUSE OF THE PEOPLE

Friday, 11th September, 1953

The House met at a Quarter Past Eight of the Clock

[MR. DEPUTY-SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

RESERVE BANK BUILDING, NEW DELHI

*1217. **Dr. M. M. Das:** Will the Minister of **Finance** be pleased to state:

(a) the total estimated expenditure for the Reserve Bank building in New Delhi which is now under construction;

(b) whether it is proposed to shift the head-office of the Bank to this building in New Delhi;

(c) whether residential accommodation will also be provided to the Governor of the Bank in this new building; and

(d) whether any arrangement for providing residential accommodation to the employees of the Bank is contemplated?

The Deputy Minister of Finance (Shri A. C. Guha): (a) The total cost of the main building in question is estimated to be in the region of rupees one crore.

(b) No, Sir.

(c) It is proposed to provide a suite of rooms in the new building for use by the Governor, Deputy Governors and officers of the Bank, when they visit Delhi on official business.

(d) It is proposed to construct a building for housing officers in the rear of the main office building now under construction. Already the Bank has provided 440 residential quarters for its staff employed in the local office.

Dr. M. M. Das: May I know, Sir, the area and the cost of the land upon which this building is being constructed?

Shri A. C. Guha: I have no figures regarding the cost of the land. The question relates to the building.

Dr. M. M. Das: May I know, Sir, the number of employees for which the new residential quarters will be built and whether the cost of building these residential quarters is included in the cost given by the hon. Minister?

Shri A. C. Guha: No, Sir. The cost of the residential quarters is not included in this figure. The number of residential quarters to be built is not yet settled. Tenders would be called for them and this will be settled after that.

Shrimati Renu Chakravartty: May I know if preliminary estimates were made by some companies and that the tender was finally given to some contractor whose estimates were higher than the others?

Shri A. C. Guha: In response to the invitation four firms submitted their tenders and one firm subsequently withdrew before the decision was taken. Then the next firm giving the lowest tender was given the contract.

Shri M. L. Dwivedi: Is it a fact that the contractor assaulted the Government Engineer in charge of the works

when he pointed out that there was a crack in the foundation which was being laid?

Shri A. C. Guha: I have no such information.

Kumari Annie Mascarene: The hon. Minister has said that he is not aware of the area of the land, on which this building is being built. Is it possible that the hon. Minister is not aware of the area of the building?

Mr. Deputy-Speaker: He may not have the information.

Shri A. C. Guha: Sir, as I stated, the question relates only to the cost of the building.

Kumari Annie Mascarene: It may be that he does not know. But the House wants to know.

Mr. Deputy-Speaker: The House will kindly put a separate question through Kumari Annie Mascarene!

Shri Muniswamy: May I know, Sir, whether the building is expected to be completed within the stipulated time?

Shri A. C. Guha: Yes, Sir. It is expected to be completed within the stipulated time.

Shri V. P. Nayar: May I know the name of the contractor or the firm and the paid up capital of that firm?

Mr. Deputy-Speaker: We are going much further into things.

Shri V. P. Nayar: It is to know whether sufficient guarantee was taken as we have often found that irresponsible persons are entrusted with responsible work.

Shri A. C. Guha: There may be some misapprehensions in the minds of hon. Members, but I can say that before the contract was given the C.P.W.D. was consulted whose report was favourable for that purpose.

Shrimati Renu Chakravartty: May I know, Sir, if a retired Engineer of the C.P.W.D. itself was engaged by this firm of contractors for this purpose?

Shri A. C. Guha: I have no information.

Shri T. N. Singh: May I know, Sir, whether the estimates, as originally prepared for this building, have exceeded in the revised estimates or they are the same? If they have exceeded then by how much?

Shri A. C. Guha: I would require notice.

SUBSIDY TO UNIVERSITIES FOR SCIENTIFIC RESEARCH.

*1218. **Prof. D. C. Sharma:** (a) Will the Minister of **Education** be pleased to state whether the Government of India have given any subsidy to any Indian Universities for carrying on scientific research?

(b) If so, what are those universities?

(c) What is the amount of subsidy given to each?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) Yes.

(b) and (c). A statement is placed on the Table of the House. [*See* Appendix VI, annexure No. 13].

Prof. D. C. Sharma: May I know, Sir, if while allocating these grants the Government took into consideration the needs of fundamental research and applied research? If so, may I know what is the proportion for fundamental research and the proportion for applied research?

Shri K. D. Malaviya: I do not know the proportion separately for fundamental or applied research but the basis for making grants under the Ministry of Education generally has been that the University has to have a department engaged in research both fundamental and applied or at least a nucleus thereof and that qualitative or quantitative improvement is considered necessary.

Prof. D. C. Sharma: May I know, Sir, on what research projects the Universities are engaged at present?

Shri K. D. Malaviya: There must be a long list of projects or subjects on which they are engaged.

Prof. D. C. Sharma: I want a sample survey.....

Mr. Deputy-Speaker: In all the universities?

Prof. D. C. Sharma: Will you kindly permit me to finish my question?

Mr. Deputy-Speaker: I have heard you. You want to know about sample survey.

Prof. D. C. Sharma: Will the hon. Minister kindly tell us about the research projects of fundamental and applied research which are being carried on by the Universities?

Mr. Deputy-Speaker: This question only relates to subsidy. Mrs. Tarakeshwari Sinha.

Shrimati Tarkeshwari Sinha: The decision of the Government of India is to award one hundred scholarships of the value of Rs. 200/- per month. Are these scholarships to be given to the candidates directly or through these Universities?

Shri K. D. Malaviya: This question has nothing to do with the grant that the University is getting. This relates directly to the grants to Universities for scientific pursuits.

Shri Bansal: May I know, Sir, if the hon. Minister is aware that in the Allahabad University a new building constructed specifically for scientific research with the help of the donations of a donor is lying idle on account of lack of subsidy from the Government of India for conducting scientific research?

ملسٹر آف ایجوکیشن اینڈ نیچرل ریسورسز اینڈ سائینٹیفیک ریسرچ (مولانا آزاد) : کوئی درخواست اس بارے میں الہ آباد یونیورسٹی سے ابھی تک گورنمنٹ آف انڈیا کو نہیں ملی ہے -

[The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): The Government of India have received no such application so far from the Allahabad University.]

Mr. Deputy-Speaker: The hon. Members must base their questions on some foundation.

Shri Bansal: I am raising this question on the foundation that I was in the Allahabad University myself and I have seen the building.

Mr. Deputy-Speaker: It may be lying idle. Has there been an application to the Centre?

Shri Bansal: I have not mentioned application.

Mr. Deputy-Speaker: Centre is not responsible for that.

Shri K. P. Tripathi: May I know, Sir, whether the Government have any plan for giving subsidy to new universities who have not been able to set up reseach branches in different sectors?

Shri K. D. Malaviya: That is also one of the considerations.

सेठ गोविन्द दास : जो नये विश्वविद्यालय स्थापित हुए हैं और जहां अभी जिस विषय का पूरा विकास नहीं हुआ है, उन को मदद देने के सम्बन्ध में मंत्री जी ने कहा कि विचार किया जायगा। तो ऐसे कौन से नये विश्वविद्यालय हैं ?

Mr. Deputy-Speaker: That has been amply answered.

सेठ गोविन्द दास : मैं यह जानना चाहता था कि ऐसे कौन से विश्वविद्यालय हैं जिन के सम्बन्ध में इस तरह का विचार किया जायगा ?

مولانا آزاد : میں ابھی ان کے نام کیسے بتلاؤں ؟ جب کوئی نئی یونیورسٹی کھلے گی اور گورنمنٹ سے

درخواست کرے گی تو اس پر غور کیا جائیگا -

[**Maulana Azad:** How can I give their names at this stage? The application shall be considered only when any new university comes into being, and asks for grant from the Government.]

Kumari Annie Mascarene: May I know, Sir, the names of the Universities to which these advances are given and whether any South Indian University is included in the list?

Shri K. D. Malaviya: I would like to inform the Members of the House that we have got 26 Universities that are receiving help. It is a long list.

Kumari Annie Mascarene: What is the answer to the second part of the question?

Mr. Deputy-Speaker: I am not going to allow that question. I have already said that such questions on territorial basis will not be allowed—South India, North India—east, west. So far as the list of Universities is concerned, there are as many as 26 Universities. I am not going to allow the time of the House to be taken up by reading the names of all the Universities.

Shri Sarangadhar Das: May I know whether any subsidy has been granted to the Utkal University?

Mr. Deputy-Speaker: I am not going to allow that question.

Shri Sarangadhar Das: It is not territorial.

Mr. Deputy-Speaker: The hon. Minister has placed the statement of subsidy on the Table of the House.

Shri V. P. Nayar: In granting these subsidies to the Universities, have the Government of India given a direction as to the subject on which research has to be done or whether the Universities have full freedom to do it?

Shri K. D. Malaviya: Yes, Sir. In several cases specific demands are made by the Universities and on that basis also grants are given.

PUBLIC SCHOOLS

*1219. **Prof. D. C. Sharma:** (a) Will the Minister of **Education** be pleased to state the number of public schools under the Central Government?

(b) Where are they located?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) Nil.

(b) Does not arise.

Prof. D. C. Sharma: May I know if the Government of India give any grants to the various public schools and if so, what is the administrative set up *vis-a-vis* the Ministry?

Shri K. D. Malaviya: These public schools which have been given some grants by the Government of India are administratively divorced from the Ministry, because from the experience gained in running these schools, it was decided that they should be autonomous schools. They are now administered by autonomous bodies and they receive *ad hoc* grants from us.

Shri V. P. Nayar: How do the tuition fees of the public schools compare with those of the ordinary schools, and if it is on the increase, what is the percentage of it?

Shri K. D. Malaviya: Fairly high.

Mr. Deputy-Speaker: From the number of public schools, you are going to the fees. The hon. Minister has answered, fairly high. Now, you want what percentage. Does it arise out of this question?

Shri N. M. Lingam: May I know whether the public schools at Lovedale and Sanawar are not under the Central Government?

Shri K. D. Malaviya: No, Sir. They are not under the Central Government.

Shri Dabhi: May I know whether English is the medium of instruction in all these schools and if so, the reason therefor?

Shri K. D. Malaviya: Yes.

Shrimati Renu Chakravartty: What is the total amount of grant which has been given to these schools for this year?

Mr. Deputy-Speaker: They are under the Central Government.

منسٹر آف ایجوکیشن اینڈ نیچرل ریسورسز اینڈ سائنٹیفک ریسرچ (مولاناآزاد) : سنٹرل گورنمنٹ نے پچھلے برس کچھ روپیہ بجٹ میں رکھا تھا - اس سال کے بجٹ میں بھی رکھا گیا ہے تاکہ پبلک اسکولوں کو مدد دی جائے -

[**The Minister of Education and Natural Resources and Scientific Research (Maulana Azad):** The Central Government has been including in the budget some money for this purpose since last year. This year also the item has been included in the budget for granting aid to public schools.]

Shri Boovaraghasamy: What is the educational curriculum in these schools?

Mr. Deputy-Speaker: The hon. Member wants the curriculum—the syllabus.

Shri N. M. Lingam: What are the steps being taken to see that these schools are not exclusively foreign, and that the training imparted is in conformity with the Indian culture and the general pattern of education in the country?

مولانا آزاد : جہاں تک ان دو اسکولوں کا تعلق ہے سناور اور نیلگری کا چونکہ یہ اسکول کچھ دنوں تک گورنمنٹ آف انڈیا کے کنٹرول میں رہے - اس لئے پوری کوشش کی گئی کہ نئے ڈھنگ کی تعلیم وہاں پر دی جائے - باقی جہاں تک دوسرے اسکولوں کا تعلق ہے چونکہ وہ پرائویٹ انسٹی ٹیوشن ہیں اس لئے اس بارے میں گورنمنٹ آف انڈیا کچھ نہیں کہہ سکتی -

[**Maulana Azad:** Since the two schools at Sanawar and Nilgiri have functioned under the control of the Government of India for some time, full efforts have been made to have the education imparted there according to the new method. And the Government can say nothing with regard to other schools which are private institutions.]

Shrimati A. Kale: May I know whether Hindi is taught as second languge in these schools?

Shri K. D. Malaviya: It is taught, so far as I know.

Shri T. S. A. Chettiar: The hon. Minister said that a certain amount is set apart for public schools and where applications are received, the amount is given.

Mr. Deputy-Speaker: No, no. All that the hon. Minister said was that with respect to these schools, on an *ad hoc* basis, grants are given. No separate fund is set apart.

Shri T. S. A. Chettiar: May I know how they distinguish public schools from the other schools in the country?

مولانا آزاد : جب پبلک اسکول کا لفظ بولا جاتا ہے تو اس کا جو مطلب ہے وہ ہر شخص جانتا ہے -

[**Maulana Azad:** Everybody knows what a 'public school' means.]

Mr. Deputy-Speaker: The hon. Member must know the difference between public and private schools.

Shri K. D. Malaviya: These public schools are run on the pattern of the British public schools.

The Prime Minister (Shri Jawaharlal Nehru): The word has been taken from England. We have public schools which are anything but public.

GRANTS TO BOMBAY STATE

*1220. **Shri Dabhi:** Will the Minister of **Finance** be pleased to state:

(a) whether the Central Government had given to the Bombay Government any assistance in the form of a grant or grants with a view to enabling the latter to cope with the scarcity and famine conditions prevailing there during the year 1953;

(b) if so, the total amount of such a grant or grants:

(c) the names of the areas of Bombay State where the amount is being used for relief; and

(d) the manner in which it is being spent in each area?

The Deputy Minister of Finance (Shri M. C. Shah): (a), (b) and (d). No cash grants have been given but the Central Government have agreed to supply imported wheat, up to 200,000 tons, at a concessional price of Rs. 14/- per maund for issue to persons employed on relief works, including members of their families.

(c) We understand that the State Government have opened fair price shops in the scarcity affected areas of Ahmednagar, Poona, East Khandesh, Amreli, Sholapur, West Khandesh, Satara North, Nasik, Satara South, Bijapur, Belgaum, Dharwar, Panch Mahals, Sabarkantha, Kaira, Surat, Ahmedabad, Baroda.

SWEDISH ACADEMY SCHOLARSHIPS

*1221. **Shri S. C. Samanta:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) how many Indian scientists have been sent and how many are going to be sent to Stockholm with Swedish Academy Scholarships;

(b) in which subjects these scholars will be trained;

(c) how much additional expenditure will be borne by the Government of India; and

(d) the qualifications required for being selected?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) to (c). One scientist has been sent to Stockholm for training and research in tanning and leather, on a fellowship awarded by the Swedish Academy of Engineering and Sciences. The Government of India have provided the scientist with air passages from India to Sweden and back at a cost of Rs. 4491/-.

(d) A copy of the notice inviting applications for the fellowship together with a copy of the form on which the applications were to be submitted is laid on the Table of the House. [*See* Appendix VI, annexure No. 14].

Shri S. C. Samanta: The second part of the question has not been answered, —the second part of (a). How many are going to be sent this year? The statement, that is, the notice supplied with the answer, I think, says the training is for 1½ years.

Shri K. D. Malaviya: One scientist —it has been said so.

Shri S. C. Samanta: May I know whether Government is contemplating to send another, because the time of the training is over now? The man was sent in 1952.

Shri K. D. Malaviya: There is no regularity about this scholarship.

منسٹر آف ایجوکیشن اینڈ نیچرل ریسورسز اینڈ سائنٹیفیک ریسرچ (مولانا آزاد): ایک ہی اسکالرشپ ہے۔

[The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): There is only one scholarship.]

Kumari Annie Mascarene: May I know, Sir, whether Government will consider the claims of lady candidates who apply for this scholarship?

Shri K. D. Malaviya: There was one scholarship awarded by the Swedish Academy. The gentleman has gone. He is under training now. So, it is finished. There is no more any offer.

Mr. Deputy-Speaker: Only one scholarship was given and the person was chosen.

EMBEZZLEMENT BY GARRISON ENGINEER'S OFFICE

*1222. **Sardar A. S. Saigal:** Will the Minister of **Defence** be pleased to refer to para 47 of the Audit Report, Defence Services, 1951 and state:

(a) why it has not been possible to recover the sum of Rs. 79,110 from the officers responsible for its embezzlement;

(b) whether Government have since accorded sanction to the write-off of the above amount; and

(c) whether the displeasure of the General Officer Commanding-in-Chief was conveyed to the Garrison Engineers concerned?

The Deputy Minister of Defence (Sardar Majithia): (a) This case pertains to the year 1945-46. The cashier who was alleged to have embezzled the amount was tried in a Civil Court but was acquitted. Disciplinary action was taken against the other military and civil officers involved in the case and suitable punishment has been awarded. Since recovery of amount is also a form of punishment and the departmental proceedings have exhausted themselves, no further action of recovery is now possible.

(b) The question is under consideration.

(c) Yes.

Sardar A. S. Saigal: May I know, Sir, why disciplinary action was not taken against the Garrison Engineers in spite of the displeasure of the General Officer Commanding-in-Chief?

Sardar Majithia: Perhaps the hon. Member does not know, Sir, that severe displeasure is recorded in the service books and that is a form of punishment.

Sardar A. S. Saigal: May I know, Sir, whether the Government are aware that while acquitting the cashier the court passed strictures against the Garrison Engineers?

Sardar Majithia: Long before the strictures were passed, Government took action to stop such recurrences by issuing detailed instructions in the year 1947.

Shri A. S. Saigal: May I know, Sir, why no steps were taken against the garrison engineer and the unit accountant to recover the money embezzled?

Sardar Majithia: As I have said, Sir, it was hoped that the cashier would be convicted. In any case, the departmental proceedings have been exhausted and the due punishment has also been given. The recovery is not now possible.

Shri A. S. Saigal: Are the garrison engineer and the unit accountant still in service? If not, when did they leave service?

Sardar Majithia: The garrison engineer left service long before the present Government took over.

Shri Joachim Alva: Is Government aware that ordinary servicemen, youngsters, who have committed thefts of cigarette tins have been court-martialled and have been awarded as much as six months' rigorous imprisonment?

The Minister of Defence Organisation (Shri Tyagi): This case pertains to the days when the responsible leaders of the country had not entered Government.

Shri T. N. Singh: The hon. Minister stated that recovery of embezzled Government money itself amounted to punishment. May I know under what rule of Defence, or Accounts, or financial procedure are recoveries of government money a punishment?

Mr. Deputy-Speaker: Recovery from the same officer who embezzled?

Sardar Majithia: As I said this cashier was tried in a civil court and he has been acquitted. About the garrison engineers, possibly one is in England. He is no longer in the service. The other officer also has left service and is not with us. He left

long before these proceedings came to our notice.

Shri T. N. Singh: My question was not with regard to this case. It was said that recovery of government dues was considered a second punishment or double punishment. I want specific clarification of this point with reference to Government rules on the subject.

Shri Tyagi: Recovery could be effected only from a person against whom the charge of embezzlement was proved. In the case of the garrison engineers there was no charge of embezzlement against them. The charge against them was negligence. About the cashier a case was started in a court, but he was acquitted. After acquittal recovery proceedings could not start against him. That is the position, Sir.

DOUBLE TAXATION RELIEF

*1223. **Dr. M. M. Das:** Will the Minister of **Finance** be pleased to state:

(a) the foreign countries with which bilateral agreements (i) have been made or (ii) are proposed to be made to give relief to foreign business concerns in this country from double taxation of their incomes;

(b) the number of such concerns (country-wise) liable to be benefited by such agreements; and

(c) the total amount of income-tax, liable to be lost annually to the Indian Exchequer by such agreements?

The Deputy Minister of Finance (Shri M. C. Shah): (a) (i) The Government of India has at present bilateral agreements—

(1) for double income-tax relief with Aden and the British Dominions of Kenya, Tanganyika, Uganda, Zanzibar, Gold Coast, Nigeria, Sierra Leone, Gambia and Mauritius, and

(2) for avoidance of double taxation with Pakistan.

(ii) The question of having agreements for avoidance of double taxation with the Governments of Burma, Ceylon, United Kingdom and Canada, is under consideration. Such agreements give benefit to Indian business concerns doing business in foreign countries as well as to foreign business concerns doing business in India.

(b) and (c). The required information is not available and its compilation will involve a good deal of time and labour which may not be commensurate with the result aimed at.

Dr. M. M. Das: In view of the fact that negotiations with the United Kingdom for such an agreement were started during the year 1949, may I know what are the technical difficulties due to which such an agreement has not been possible with the U.K.?

Shri M. C. Shah: Negotiations are going on. There are certain hitches and when those hitches are solved there are further hitches and the matter is yet under consideration.

Dr. M. M. Das: I want to know the exact nature of the difficulties, if the hon. Minister will mention one or two.

Shri M. C. Shah: The latest is with regard to shipping incomes.

Dr. M. M. Das: May I know, Sir, whether it is permissible under any international law or convention to impose and realise income-tax upon dividends which are enjoyed by shareholders in the foreign companies from income earned in India?

Shri M. C. Shah: It all depends whether that assessee is a resident or non-resident. There are certain conditions on which assessments are made. If he is a resident that income is assessed; if he is a non-resident then there is another consideration.

Dr. M. M. Das: Resident of which country?

Shri M. C. Shah: Resident of the taxable territory: resident of India if that is the taxable territory.

Shri T. N. Singh: In 1951 the Finance Act was amended to cover a number of cases where question of double taxation on foreign investors was concerned. May I know whether that special amendment made has in any way relieved the position of foreign investors here and Indian investors abroad in regard to their incomes and taxation claims of India?

Shri M. C. Shah: The latest amendment has given powers to the Government of India to enter into negotiations with other foreign countries for the double taxation relief agreements or double taxation avoidance agreements. We are just having negotiations with regard to that.

TOUR OF MINISTER IN FOREIGN COUNTRIES

***1224. Dr. M. M. Das:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether the decision of going abroad of a Minister of the Union Government is taken by the Minister himself or the sanction of the Cabinet is required for such a tour in foreign countries;

(b) whether there are any standing rules regarding payment of expenditure of such tours by Government; and

(c) if so, the factors taken into consideration to determine whether the expenses incurred in such tours will be paid by the Public Exchequer?

The Deputy Minister of Home Affairs (Shri Datar): (a) Approval of the Cabinet is required to the deputation abroad of a Minister of the Union Government.

(b) and (c). There are no special rules relating to the tours of Ministers abroad. The deputation to a foreign country of any Minister or an officer of the Central Government is allowed only if it is considered necessary in the public interest. If the deputation is in connection with Government work, the expenditure is borne by Government.

Dr. M. M. Das: May I know, Sir, whether it is a fact that the frequency of going abroad by a Central Minister varies inversely, or is inversely proportionate, to the importance of that Ministry?

Shri Jawaharlal Nehru: If I may say so, Sir, the question is an insinuation, which, I think, is very improper. I think that Ministers of Government have less frequently gone abroad. They have almost always gone abroad in connection with important conferences. I have gone there sometimes in connection with Prime Ministers' Conference, or the UNESCO, or the United Nations Conference, or the World Health Organisation Conference. These are very vital and important conferences, although it is possible that the hon. Member who put this question has not properly appreciated their importance, or the part played in the world affairs and the amount of good they have done to us, like the World Health Organisation, like the UNICEF. The amount of assistance we have had in our calamity and in building up of various institutions, is very considerable.

Ministers go there not casually. It has to be fixed up with the Governments concerned, with the organisation. It is a complicated affair. They do not suddenly take a ticket and go. Their programme has to be fixed up, our Ambassadors have to be informed: it is a very complicated thing. Of course, when a Minister goes, he has certain discretion as to how long to stay at a conference, when to come back, where to go round about, if it is necessary. It is for a Minister to decide. Everything is fixed up long before he goes from here.

Mr. Deputy-Speaker: I can only say that such casual remarks, or generalisations, or insinuations ought to be avoided. If the hon. Member has any particular case in mind where he feels that a Minister has not gone for an important purpose and he wants further clarification, he may draw attention to that particular case. Gene-

ralisations of this character ought to be avoided.

ADULT BLIND TRAINING CENTRE

*1225. **Shri Radha Raman:** (a) Will the Minister of **Education** be pleased to state the number of students getting training at present at the Adult Blind Training Centre, Dehradun?

(b) What are the different industries in which they are being trained?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) 136.

(b) Simple cottage-industry-type handicrafts like weaving of cotton and woollen textiles, spinning, chair-caning, etc.

Shri Radha Raman: May I know, Sir, if the Government of India has got any statistics about the number of adult blindmen in this country?

Shri K. D. Malaviya: We have no statistics, but from information that is available, it seems there are about two million blindmen in the country.

Shri Radha Raman: May I know, Sir, from which States the blindmen are admitted into this institution?

Shri K. D. Malaviya: There is no reservation for any States.

Shri S. N. Das: In view of the fact that the hon. Minister has stated that there is no reservation for any States, may I know, Sir, from which States the blind adults have come?

ملسٹر آف ایجوکیشن اینڈ نیچرل ریسورسز اینڈ سائینٹیفیک ریسرچ (مولانا آزاد): اس وقت یہ نہیں بتلایا جا سکتا -

[The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): Nothing can be said at this stage.]

Shri Muniswamy: May I know, Sir, whether only adults are admitted into the School or whether young boys are also admitted?

Shri K. D. Malaviya: Any blind person between the age of 18 and 40 is eligible for admission.

Shri Veeraswamy: May I know, Sir, whether there is any comprehensive scheme under the consideration of the Government to educate all the blind children in different avocations?

Mr. Deputy-Speaker: The question is "Is there a school for the blind children where they are educated in different avocations?"

Shri K. D. Malaviya: Yes, there are such schools for the blind.

Shri Radha Raman: May I know, Sir, what are the conditions for admission of students in this Institute?

Shri K. D. Malaviya: I am not aware of any other condition except that the blind should be between 18 and 40 years of age.

Shri Boovaraghasamy: Who bears the expenses of these students—Government or the students themselves?

Shri K. D. Malaviya: The expenses are borne by the Government.

مولانا آزاد: اس سینٹر کا تمام خرچہ گورنمنٹ آف انڈیا دیتی ہے -

[Maulana Azad: The entire expenses of this Centre are borne by the Government of India.]

Shri Boovaraghasamy: I am not able to follow this answer.

Mr. Deputy-Speaker: It is given in the proper language—the official language of the country. The hon. Member cannot cast aspersion at the language which has been accepted as the official language of the country. But I will give the information to his question—so far as this Centre is concerned, the expenditure is borne by the Central Government.

Shri Muniswamy: May I know, Sir, whether blind ladies are also admitted into the school?

مولانا آزاد : اس میں کوئی شرط مردوں کی نہیں ہے -

[**Maulana Azad:** There is no such condition that blind men only can be admitted.]

STUDENTS STUDYING ABRCAD

*1226. **Dr. Ram Subhag Singh:** Will the Minister of **Education** be pleased to state:

(a) the number of Indian students sent abroad for study during the financial year 1953-54 on Government scholarship; and

(b) the number of Indian students who have been awarded fellowships by the U. S. Education Foundation in India for the academic year 1953-54?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) No Indian student has been sent abroad for study on a Government of India Scholarship during the current financial year.

(b) None. I may also be allowed to state here very briefly the various schemes in view of the fact that there are various enquiries made by hon. Members of the House about scholarship schemes. There are three main scholarship schemes under which people are sent abroad for study—academic and practical.

(1) Modified Overseas Scholarship Scheme.

(2) Central State Scholarship Scheme.

(3) Indo-German Industrial Co-operation Scheme.

Besides, there are Technical Exchange Agreements such as the Fulbright Agreement. The United States Technical Foundation awards each year a number of travel grants to research scholars, professors, etc. These are the four schemes under which people go abroad for studies.

Dr. Ram Subhag Singh: May I know, Sir, whether the values of the various scholarships are the same?

Shri K. D. Malaviya: They are different. Conditions are not similar.

Dr. Ram Subhag Singh: What is the difference in value between the various scholarships?

ملسٹر آف ایجوکیشن اینڈ نیچرل ریسورسز اینڈ سائنٹیفیک ریسرچ (مولانا آزاد) : پرانی اسکیم جو اوورسیز اسکالرشپ کی تھی وہ ختم کر دی گئی - دو برس سے وہ اسکیم نہیں چل رہی ہے - اب ایک نئی اسکیم چلائی گئی ہے - اس میں عام طور پر اسٹوڈینٹس نہیں لئے جاتے ہیں بلکہ یونیورسٹیوں کے ایسے ٹیچر جن کو یونیورسٹی بھیجنا چاہے ان کو لیا جاتا ہے - اس صورت میں آدھا خرچ یونیورسٹی اٹھاتی ہے آدھا خرچ سینٹرل گورنمنٹ سے دیا جاتا ہے - سروس کے ایسے جونیر میں جو قابلیت بڑھانا چاہتے ہیں ان کو بھی لیا جاتا ہے - اسی لئے جواب میں کہا گیا کہ اس سال کوئی اسٹوڈینٹ نہیں بھیجا گیا کیونکہ اب اس طرح اسٹوڈینٹ بھیجنے کی کوئی اسکیم نہیں ہے -

[**The Minister of Education and Natural Resources and Scientific Research (Maulana Azad):** The old scheme of Overseas Scholarship was suspended two years back. A new scheme has been introduced now. Under this new scheme the students generally do not get these scholarships; but those University teachers whom their respective universities want to send abroad, are selected. In such cases half the ex-

penses are borne by the University and the other half by the Central Government. Those junior men in service who are desirous of adding to their ability are also selected. Therefore, the reply given was that no student was sent during the current year as there was no more any scheme for sending students abroad in that way.]

सेठ गोविन्द दास : इन छात्रवृत्तियों के अनुसार जो विद्यार्थी अब तक भेजे गये थे और जो अब लौट कर आ गये हैं क्यों उनको सरकार ने कोई नौकरियां दे दी हैं और अभी उन में से कितनों को नौकरियां नहीं मिली हैं ?

مولانا آزاد : گورنمنٹ نے پوری کوشش کی ہے - میں اس وقت ٹھیک فیگرس نہیں بتلا سکتا لیکن میرا خیال ہے تقریباً سب کو نوکریاں مل گئی ہیں -

[**Maulana Azad:** The Government have made full efforts to provide them with jobs. I cannot give exact figures at the moment; but I think, all of them have been provided with jobs.]

Shri Nanadas: In view of the fact that the Central Scholarship Board for Scheduled Castes and Scheduled Tribes has discontinued sending scheduled caste people to foreign countries, may I know, Sir, what steps have Government taken to send such people for studies abroad in the general scheme?

Shri K. D. Malaviya: According to the recommendation of the Board, the scholarships for the scheduled castes and tribes is stopped, but they are again reconsidering the question as to whether it is possible to send scheduled castes and backward class people for studies abroad.

अकाल सहायता

*१२२७. सेठ गोविन्द दास : क्या वित्त मंत्री यह बतलाने की कृपा करेंगे कि जनवरी १९५२ से ले कर जून १९५३ तक मद्रास राज्य के पंच वर्षीय योजना के लिए कितना रुपया दिया गया तथा अकाल सहायता के लिए कितना दिया गया?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): Central assistance to States is generally given for a full financial year during the closing months of the year and it will therefore be misleading to give figures by months. A statement giving the information for the financial years 1951-52 and 1952-53 is placed on the Table. [*See* Appendix VI, annexure No. 15].

Shri M. D. Ramasami: May I know, Sir, whether any grant was made towards the recent famine conditions in Tamil Nad?

Mr. Deputy-Speaker: This is a five year plan and recent famine conditions do not arise.

Shri S. V. Ramaswamy: May I know, Sir, if famine relief was requested by the Madras State Government; if, so, how much was requested and how much was granted by way of grants and how much by way of loan?

Shri B. R. Bhagat: In 1952-53, for was made available to the Madras Government by way of grants, and Rs. 2 crores by way of loan. As regards how much money was requested, how much money was requested, I I have not got the figure, but this was given according to the principle of 50 per cent. of the total amount spent by the State Government for this purpose.

Shri S. V. Ramaswamy: Does this refer to money granted for gruel centres?

Shri B. R. Bhagat: It is for general relief.

Shri Nanadas: May I know what amount was given by the Central Government for famine relief during the financial year 1953-54 so far?

Shri B. R. Bhagat: I am sorry I have not got the figure.

WOMEN STUDENTS

*1228. **Shri Radha Raman:** (a) Will the Minister of **Education** be pleased to state how many women students are studying in foreign countries on scholarships of the Government of India?

(b) What are the various subjects of their study?

(c) In which Universities are they studying?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) 7.

(b) (1) Physiotherapy.
(2) Economics.
(3) Modern Methods of Literary Criticism.
(4) Fine Arts.
(5) Indology.
(6) Music.

(c) (1) London University, London.
(2) University of Gottingen, West Germany.
(3) Friedrich, Wilhelms University, West Germany.
(4) Art Academy, Munich, West Germany.

Mr. Deputy-Speaker: Order, order. Hon. Members may keep silent. I find three of them have been talking to one another for half an hour. I am sorry. I cannot control the House if groups of people join thus and make this a lobby. I will allow some five minutes to be wasted till there is silence. No hon. Member barring a few exceptions seems to feel a sense of responsibility. I cannot go on hearing this kind of noise. Sometimes it goes up and it comes down when I tell them that they ought not to do so.

Shri Radha Raman: May I know how many of these scholarships are enjoyed by government employees?

Shri K. D. Malaviya: From the list I cannot make out whether they belong to government service or not. I can read out the names.

Mr. Deputy-Speaker: How will it show whether they are government employees?

Shri T. S. A. Chettiar: May I know whether it is the intention of Government to give foreign scholarships only for such higher courses of study in respect of which facilities are not available in India?

Shri K. D. Malaviya: Yes, generally it is so

Shrimati A. Kale: May I know the names of the scholarship-holders?

Shri K. D. Malaviya: Out of seven, four have gone under the Modified Overseas Scholarships Scheme, and they are:

(1) Mrs. Ramola Nandi, M.A. (Economics)
(2) Mrs. Sharda Devi Vedalankar
(3) Miss K. Bhattacharya
(4) Miss J. M. Moniar.

The rest are under the Indo-German Industrial Co-operation Scheme, and their names are:

(1) Mrs. Meera Devi Goswami
(2) Miss Kusum Mittal
(3) Miss Trina Roy Surashre.

Kumari Annie Mascarene: May I know whether any woman student has been given scholarship for specialising in medicine?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): No.

Shri K. D. Malaviya: One scholarship for physiotherapy has been given to Miss K. Bhattacharya. I am not sure whether it comes under Medicine.

Shrimati Renu Chakravartty: May I know whether the subjects for which these women are sent abroad are integrated with the needs of the Five Year Plan and whether they are put to some use when they come back?

Shri K. D. Malaviya: We do have such consideration and when they come back they are generally absorbed.

Shrimati Renu Chakravartty: Is any guarantee regarding employment given?

مولانا آزاد : ہاں - جو بھیجی گئی ہیں وہ یہی سمجھ کر بھیجی گئی ہیں کہ وہ واپس آئیں تو بیکار نہ رہیں ان میں تین کو سروس کمیشن کے مشورہ سے بھیجا گیا ہے -

[**Maulana Azad:** Yes; these women have been sent abroad only with the idea that they are put to some use after their return. Three of them have been sent after consultation with the Service Commission.]

Shri Radha Raman: May I know what is the total amount spent on these scholarships and whether it covers the entire expenses of each scholarship-holder?

مولانا آزاد : ٹوٹل اس وقت نہیں بتلایا جا سکتا -

[**Maulana Azad:** The total amount cannot be given at present.]

Shri K. D. Malaviya: With regard to the Indo-German Industrial Co-operation Scheme, generally fifty per cent. is borne by the scholar or by the authority sponsoring the scholar, and fifty per cent. is borne by Germany.

Dr. Ram Subhag Singh: In reply to question No. 1226 the hon. Minister said that foreign scholarships have been stopped for the last two years. May I know when the women students were sent abroad?

Shri K. D. Malaviya: It is not stopped; it is not directly given to students. That is what the hon. Minister said. It has been distributed in the three Government of India schemes. And the whole purpose is that the Ministry of Education restrict it to teachers of universities and research scholars of institutions of higher learning to qualify themselves; it is not generally given to students directly.

Shri G. P. Sinha: May I know how many have gone to study music?

Mr. Deputy-Speaker: It need not be answered again. Hon. Members must be shrewd, keen and attentive. It was stated that there is only one student that has gone for music—it is not fifty that has been sent. Again the question is asked.

Shri Gidwani: Sir, I suggest that questions 1229 and 1230 may be taken together.

Mr. Deputy-Speaker: Both of them are put.

Shri A. C. Guha: May I answer both questions 1229 and 1230 together, Sir?

Mr. Deputy-Speaker: That is what he is saying.

SMUGGLING OF LIQUOR

*1229. **Shri Gidwani:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that some Custom Officers of the Bombay Customs were involved in smuggling of liquor cases during the year 1952;

(b) if so, whether they were tried by competent court;

(c) whether they were convicted;

(d) the punishment awarded to them; and

(e) whether they have been retained in Government service?

The Deputy Minister of Finance (Shri A. C. Guha): (a) No officer was involved in smuggling of liquor. But three officers were charged under the Bombay Prohibition Act.

(b) to (e). Two of them were acquitted by the Presidency Magistrate and the case against the third has not yet been decided. No departmental punishment was given to the two officers for want of sufficient evidence. The question of taking departmental action against the third will be decided after the criminal case against him is over.

SMUGGLING OF LIQUOR

*1230. **Shri Gidwani:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that some Customs Officers at Bombay were involved in smuggling of liquor cases during the year 1951;

(b) whether the enquiry was held and the cases decided in August 1952 by the Collector of Customs;

(c) if so, whether they were convicted;

(d) the punishment awarded to them; and

(e) whether they have been retained in Government service?

The Deputy Minister of Finance (Shri A. C. Guha): (a) No officer was involved in smuggling of liquor. But four officers were charged for unauthorised possession of liquor.

(b) to (e). Three of them were acquitted by the Presidency Magistrate and the fourth was sentenced to one day's simple imprisonment and a fine of Rs. 500 or in default rigorous imprisonment for 6 weeks. Departmental enquiry was held in two out of the four cases. In one case the officer was found guilty and was removed from service. In the other case, his increment was stopped for one year. In the two other cases, no departmental enquiry was held for lack of evidence.

Shri Gidwani: Is it a fact that the preventive officer, Mr. Dique was caught red-handed while smuggling liquor from the docks while on duty, that he was prosecuted and convicted by the criminal court at Ballard Pier and that his appeal to the High Court was also rejected; and may I know whether he has been re-instated in Government service?

Shri A. C. Guha: I have stated that only one man was convicted and was awarded simple imprisonment only for a day.

Mr. Deputy-Speaker: He wants to know whether he is still in service.

Shri A. C. Guha: Yes, Sir. He is still in service. Because we consulted the Ministry and there was not sufficient evidence and it was not considered an act of moral turpitude.

Shri Gidwani: Sir, his appeal has been rejected by the High Court and it is said by the hon. Minister that he has been reinstated. Does it not constitute moral turpitude?

Shri A. C. Guha: I can only say we have consulted the Law Ministry and it was stated that no charge for smuggling could lay in such cases. According to the circular of the Home Ministry it was not considered an act of moral turpitude and I can read out the relevant portion of the Home Ministry circular.

Mr. Deputy-Speaker: Notwithstanding the conviction?

Shri A. C. Guha: It is not that every conviction for breach of prohibition is to be a case for automatic dismissal. That is the Home Ministry's circular and we have been guided by that.

Several Hon. Members: Why not?

Shri H. N. Mukerjee: Since the hon. the Home Minister is here could we have this vouchsafed by him, Sir?

The Prime Minister (Shri Jawaharlal Nehru): May I suggest that this matter may be looked into again and it may be raised again?

Shri A. C. Guha: We are already looking into this matter.

Shri Jawaharlal Nehru: It will be referred to the Prime Minister now.

TRAINING OF TECHNICAL PERSONNEL

*1231. **Shri C. Bhatt:** Will the Minister of **Defence** be pleased to state:

(a) the number, names and qualifications of the technical personnel who have been selected for undergoing specialised training in the factories of the Compaign Generale de-Telegraphe Sans Fil Organisation in

the manufacturing, testing, development and other departments;

(b) the place where this Company is situated; and

(c) the duration of training?

The Deputy Minister of Defence (Shri Satish Chandra): (a) 12 trainees have been selected; their names and qualifications are given in the statement which is laid on the Table of the House. [*See* Appendix VI, annexure No. 16.]

(b) Cholet (France).

(c) Approximately one year.

Mr. Deputy-Speaker: Order, order. Each hon. Member should make up his or her mind not to talk. What can I do?

Shri C. Bhatt: What will be the expenses of this personnel and who is to bear the expenses till their training is finished?

Shri Satish Chandra: The cost of the training will be about Rs. 1,30,200 and it will be debited to the account of the Bharat Electronic Industries.

Shri C. Bhatt: When is the next selection going to be held and will there be any change in the qualifications for the selected personnel?

Shri Satish Chandra: No proposal has come to the Government so far. We shall look into it.

Shri N. M. Lingam: May I know the reasons for which this particular place was selected for training?

Shri Satish Chandra: The C. S. F. with whom the Government have entered into an agreement for the technical assistance in setting up of the Tele-Communications factory in India, have their works at this particular place.

GENERAL PROVIDENT FUND

*1232. **Shrimati Renu Chakravartty:** Will the Minister of **Finance** be pleased to state:

(a) whether Government propose to allow all the Central Government employees of Class IV category to enjoy the facilities of General Provident Fund Rules;

(b) whether Post and Telegraph Department employees have already been granted these facilities; and

(c) the reason for the granting of the same to Post and Telegraph Department employees and not to other Government employees of the same category?

The Deputy Minister of Finance (Shri M. C. Shah): (a) to (c). There had been a persistent and widespread demand from Class IV employees of the Posts and Telegraphs Department for permission to subscribe to the General Provident Fund. Necessary orders permitting those employees to subscribe to the Fund on a voluntary basis were accordingly issued early this year. There is no similar demand at present from or on behalf of Class IV employees of other Departments. If and when such a demand develops, the question of extending the benefits of the General Provident Fund to the other employees will be given due consideration, in the light of the experience gained of the working of the arrangements on the Posts and Telegraphs side.

Shrimati Renu Chakravartty: Are we to take it that no such demands have been received from the class IV servants of any other department?

Shri M. C. Shah: No, Sir. No, Madam.

Some Hon. Members: What, Madam?

Shri M. C. Shah: I am sorry.

Mr. Deputy-Speaker: The first reply was right.

Shrimati Renu Chakravartty: May I know what are the reasons which deter the Government from applying these rules to every department in view of the fact that this money can be utilised for nation-building activities?

Shri M. C. Shah: There were many difficulties even in granting this concession to the employees of the Posts and Telegraphs department, in accounting. There may be innumerable accounts that would be operated upon and so, the trouble to be taken will not be commensurate with the benefits to be gained. Therefore, in the first place, we were not agreeable to that. But, the matter was further examined and this concession was granted. If other employees come forward with the demand, it will be given due consideration.

Shrimati Renu Chakravartty: In view of the fact that small savings schemes are being publicised for the Five-year Plan, may I know whether such schemes can be used for this case also?

Shri M. C. Shah: We are prepared to consider the demand if made.

Shri Muniswamy: May I know whether the hon. Minister is in a position to tell us whether the Extra-departmental staff of the Posts and Telegraphs department will also be allowed to get the benefit of this concession?

Shri M. C. Shah: This questions relates to Class IV employees. All employees of class IV have been given the benefit of the General Provident Fund on a voluntary basis. There is no question of Ex-departmental staff.

Shri Muniswamy: There was a demand by the Extra-departmental Union to grant such benefits.

Mr. Deputy-Speaker: Are they class IV people? Next question.

जमैयतुल इस्लाम (भारतीय तथा पाकिस्तानी)

*१२३३. **श्री रघुनाथ सिंह** : क्या गृह कार्य मंत्री यह बतलाने की कृपा करेंगे कि :

(क) क्या सरकार का ध्यान "इंडियन नशन" पटना के २४ दिसम्बर १९५२ तथा ४ तथा १८ जनवरी १९५३ के संस्करणों में प्रकाशित जमैयतुल इस्लाम की गतिविधियों की ओर दिलाया गया है ; तथा

(ख) यदि दिलाया गया है तो सरकार इस मामले में क्या कार्यवाही करने का विचार रखती है ?

The Deputy Minister of Home Affairs (Shri Datar): (a) Yes.

(b) Government are keeping themselves informed of the activities of the Jamait-i-Islami. Appropriate action will be taken whenever it becomes necessary.

श्री रघुनाथ सिंह : क्या सरकार को मालूम है कि बिहार सरकार ने सरकारी नौकरों को जमैयतुल इस्लामी में भाग लेने से उन को मना किया है ?

गृहकार्य तथा राज्य मंत्री (डा० काटजू) : बिहार गवर्नमेंट से इस के मुताल्लिक दरियाफत करूंगा ।

श्री रघुनाथ सिंह : क्या सरकार को मालूम है कि जुमैयतुल इस्लामी की जो हिन्दुस्तानी शाखा है, उस का अमीर पाकिस्तानी नागरिक है ?

डा० काटजू : वह लाहौर में रहता है, इतना मालूम है ।

श्री रघुनाथ सिंह : क्या सरकार को मालूम है कि जमैयतुल इस्लामी के फाउन्डर और सदर मदूदी साहब को पाकिस्तान में १४ साल की सजा इस वास्ते दी गई है कि हम सेकुलर सरकार में विश्वास नहीं करते ?

डा० काटजू : यह खबर मैं ने पढ़ी है कि उन को सजा हुई है ।

श्री रघुनाथ सिंह : क्या सरकार को यह मालूम है कि जमैयतुल इस्लाम के लोग जब नैशनल एन्थम गाया जाता है तो स्टैंड नहीं होते ?

डा० काटजू : मुझे मालूम नहीं है, इस के बारे में आप को मालूम होगा ।

डा० राम सुभग सिंह : अभी मंत्री महोदय ने कहा कि इस के सभापति लाहौर में रहते हैं तो मैं जानना चाहता कि वहां

की शाखा के सभापति होने की उन को कैसे इजाज़त दी गयी ?

डा० काटजू : इजाज़त किसी ने मांगी नहीं, इजाज़त का सवाल ही नहीं है ।

श्री बी० पी० सिन्हा : यह संस्था यहां हिन्दुस्तान में कितने दिनों से काम कर रही है ?

डा० काटजू : जहां तक मुझे मालूम है, कई वर्षों से, गालिबन आठ, दस साल से ।

श्री टी० एन० सिंह : हम यह जानना चाहते थे कि इस संस्था का संचालन कैसे प्रैसीडेंट महोदय यहां से बाहर रहते हुए करते हैं, या उन को कभी कभी उस का संचालन करने के लिए यहां आना नहीं पड़ता है ?

डा० काटजू : उन की आमद रफ़्त का हाल मुझे मालूम नहीं, बाक़ी डाक खुली हुई है, ख़त वग़ैरह भेजते होंगे ।

श्री रघुनाथ सिंह : क्या सरकार को मालूम है कि जमैयतुल इस्लाम के साहित्य में हमारे प्रधान मंत्री को सुपरफलुअस थिंकर (superfluous thinker) के नाम से सम्बोधित किया गया है ?

प्रधान मंत्री (श्री जवाहरलाल नेहरू): किस नाम से ?

श्री रघुनाथ सिंह : सुपरफलुअस थिंकर (superfluous thinker) किताब का नाम है प्राब्लम आफ़ नेशनलिज़्म (Problem of Nationalism)। पेज २२६ और २२७ पर हमारे प्रधान मंत्री साहब के बारे में कहा गया है कि वे सुपरफलुअस थिंकर (superfluous thinker) हैं ।

श्री जवाहरलाल नेहरू : कोई गाली नहीं है ?

डा० काटजू : लफ्ज़ सुपरफलुअस (superfluous) किस कंटैक्सट (context) में आता है, किस चीज़ के लिए आता है, यह देखना चाहिए ।

श्री जवाहरलाल नेहरू : Superfluous thinker, superfluous talker से बेहतर होता है, कम अज कम दूसरे का नुक़सान नहीं करता है । यह जो यहां पर जमैयतुल इस्लाम की चर्चा हो रही है, तो उस के बारे में तो मैं अर्ज़ करूं कि हमें अच्छी तरह से मालूम है कि वह कौन है और कहां है, वह छिपी हुई नहीं है, वह एक मज़हबी जमात अपने को कहते हैं और हो सकता है कि वह किन्हीं सियासी बातों में दखल दें और अपनी राय दें, पिछले इतने वर्षों से तो वह अलग अलग काम करते आ रहे हैं, मौलाना मदूदी साहब पहले से उस जमात के सदर हैं, सदर एक मानी में ज़रूर हैं, लेकिन हिन्दुस्तान से कोई ताल्लुक़ नहीं है, सिवाय उन के ख़त वग़ैरह यहां पर आ जाते हैं और जहां तक मुझे इल्म है, वह कभी यहां पर आये भी नहीं । लाहौर में जब यह कादियानी झगड़े हुए उस के बाद उन्हें मौत की सज़ा हुई थी, उस के बाद गवर्नमेंट ने उस मौत की सज़ा को १४ वर्ष की सज़ा में तबदील कर दिया है और वह वहां इस वक्त क़ैद में हैं और ज़ाहिर है कि वहां से अब वह आसानी से सदारत का काम नहीं करते ।

FOREIGN FIRMS

*1234. **Dr. Lanka Sundaram:** Will the Minister of **Finance** be pleased to state:

(a) the procedure for foreign firms to sell their undertakings to Indian nationals;

(b) the number of such applications and the names of such applicants seeking permission from the Government of India to sell their undertakings to Indians; and

(c) whether Government is in a position to ensure that the proposed sale price of these undertakings has some relation to the paid-up and break-up value of the sale?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) No particular procedure has been laid down for the sale of foreign undertakings to Indian nationals.

(b) Permission of the Government of India is not necessary for the sales. Remittances of sale proceeds are, however, governed by Exchange Control Regulations. Between July 1947 and March 1953, remittance facilities were granted in seventy cases and the amount remitted was Rs. 14·91 crores. A statement indicating the nature of these concerns is placed on the Table of the House. [*See* Appendix VI, annexure No. 17.]

(c) Government has no direct power to regulate such transactions between parties concerned and under the existing agreement in regard to sterling balances capital remittances resulting from such sale are allowed freely to the sterling area. In certain cases a transaction is liable to be refused approval under section 87BB of the Indian Companies Act.

Mr. Deputy-Speaker: The Question-hour is over.

Dr. Lanka Sundaram: One question, Sir.

Mr. Deputy-Speaker: I cannot allow. The Question-hour is over.

Short Notice Question and Answer

Cheques in Hindi

Shri Raghunath Singh: (a) Will the Minister of **Finance** be pleased to state whether the Accountant General, Uttar Pradesh has, by a notification, directed local boards, which have hitherto been issuing cheques in Hindi, not to do so any more and ordered that cheques written in Hindi will not be accepted by the banks?

(b) If so, are Government aware that Hindi is the State Language of Uttar Pradesh, that all work there is carried on in Hindi and those orders have created a deadlock in local administration?

(c) Have the above orders been issued in pursuance of any policy of the Government of India?

(d) Will these orders be binding also on those people who know Hindi only and write cheques in Hindi?

The Minister of Finance (Shri C. D. Deshmukh): (a) No, Sir. The orders in question were issued by the State Government.

(b) Government are aware that Hindi is the State Language of Uttar Pradesh, but under the Constitution, Audit is a Union subject and Union work is to be carried on in English for a period of 15 years from the commencement of the Constitution. Government are not aware that any deadlock has been created in the local administration by the issue of the orders referred to by the hon. Member.

(c) Does not arise.

(d) Yes, Sir.

श्री रघुनाथ सिंह : क्या मैं यह जान सकता हूं कि जो लोग कि अंगरेजी नहीं जानते, और जो लोग कि अब तक हिन्दी में चेक पर हस्ताक्षर करते थे या लिखते थे, उन के ऊपर भी यह नियम लागू होगा ?

श्री सी० डी० देशमुख : उन के ऊपर भी यह नियम जरूर लागू होगा ।

सेठ गोविन्द दास : माननीय मंत्री जी ने अभी यह कहा कि जहां तक केन्द्र का संबंध है, वहां तक यह निर्णय हुआ था कि १५ वर्षों तक यहां पर कुल काम अंगरेजी में चलाया जायगा, पर क्या इस के साथ यह

निर्णय भी नहीं हुआ था कि इन १५ वर्षों के अन्दर भी जहां जहां पर हिन्दी में काम चलाया जा सकता है वहां पर वह अंगरेजी के साथ हिन्दी में भी चलाया जाय ?

श्री सी० डी० देशमुख : अगर हिंदी का उपयोग इस बात में किया जाय तो नियंत्रक, महालेखा परीक्षक और महालेखपाल के कार्य निर्वाह में बड़ी बाधा आने की सम्भावना है ।

श्री सिंहासन सिंह : मैं जानना चाहता हूं कि क्या १५ वर्ष के बाद एकाएक ओवरनाइट जितने महालेखा परीक्षक, महालेखपाल जो अंगरेजी में काम करते रहेंगे या जो कार्यवाहक हैं वह हिन्दी में काम शुरू कर देंगे ?

श्री सी० डी० देशमुख : नहीं, इस में जो मूल नियम ह, जो अधिनियम हैं, गौण नियम हैं, या द्विनियम हैं उन का भाषान्तर कराने का प्रयत्न अभी से किया जा रहा हैं ।

श्री टी० एम० सिंह : कौन सी विश कठिनाई अनुभव हुई जिस के कारण पुराने तरीके को जिस में चेक अभी हिन्दी में लिखे जा सकते हैं, उस को एकदम बन्द कर दिया गया ?

Mr. Deputy-Speaker: This relates to Hindi in cheques and not Hindi in language.

श्री टी० एम० सिंह : मैं यह पूछ रहा हूं जो कि अभी तक हिन्दी में लिखे जाते थे उस को एक दम से बन्द करने और अंगरेजी में लिखवाने का क्या कारण है ?

श्री सी० डी० देशमुख : मैं ने कह दिया है कि महालेखपाल के काम में जो कि बड़े महत्त्व का है, किसी प्रकार का प्रतिबन्ध नहीं आ जाना चाहिये ।

सेठ गोविन्द दास : क्या माननीय मंत्री को यह बात मालूम है कि अभी भी ....

Mr. Deputy-Speaker: Did I hear the hon. Minister say that the order was issued by the Government of Uttar Pradesh, and not the Accountant-General?

Shri C. D. Deshmukh: That is right. By the U.P. Government itself.

Mr. Deputy-Speaker: Then, why not hon. Members go to the U.P. Government?

Shri C. D. Deshmukh: I am only trying to say that that order was very rational because.....

Shri Sinhasan Singh: Not rational.

Mr. Deputy-Speaker: Are we going here into all that the U.P. Government does?

Shri C. D. Deshmukh: We are concerned specially here with the smooth working of the Accounts and Audit Department, and a large proportion of the personnel are at present not very conversant with Hindi. Also, Sir, many of the terms are most technical and, as I pointed out, the fundamental rules, subsidiary rules, various other rules and codes have yet to be translated. When once the translation has been done and we have got the proper technical terms, then we must allow a little time to the subordinates of these important departments to make themselves familiar with them. Then gradually we can replace English by Hindi which is the admitted common objective of every one of us.

WRITTEN ANSWERS TO QUESTIONS

SURVEY OF INDIA (EMPLOYEES)

*1235. **Shri Nambiar:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether Government have implemented the recommendations of the Central Pay Commission in regard to the scales of pay of all class IV em-

ployees of the Survey of India Department;

(b) if not, the reasons therefor; and

(c) whether the technical labourers have been classified according to the scales prescribed by the Central Pay Commission?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes.

(b) Does not arise.

(c) Yes.

NON-CHRISTIAN SCHEDULED TRIBES

*1236. **Shri S. N. Das:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether any inquiry has been made into the complaint received by the Commissioner of Scheduled Castes and Scheduled Tribes from some non-Christian Scheduled Tribes people that in villages where there is a majority of Scheduled Tribes who are Christians, the non-Christians Scheduled Tribe people who are in a minority, have to put up with many difficulties as per the report for the year 1952 at page 6 para (1) under Bihar;

(b) if so, what are the difficulties that they have been found to be facing there; and

(c) the steps taken to remove these difficulties?

The Deputy Minister of Home Affairs (Shri Datar): (a) to (c). The complaint was brought to the notice of the Government of Bihar; but it has not been possible for them to make any regular enquiry in the absence of specific indication of the names and whereabouts of complaints or the difficulties involved.

विन्ध्य प्रदेश में कोयले की खान

*१२३७. **श्री बी० डी० शास्त्री :** क्या प्राकृतिक संसाधन तथा वैज्ञानिक अनुसंधान मंत्री यह बतलाने की कृपा करेंगे कि :

(क) विन्ध्य प्रदेश की कितनी कोयला खानों में कोयला निकालन का काम जारी है;

(ख) कितनी खानों में यह काम अभी आरम्भ नहीं किया गया है ; तथा

(ग) वहां कोयला निकालन का काम शुरु करने में क्या कठिनाइयां हैं ?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Eight.

(b) and (c). The information has been called for from the State Government and will be laid on the Table of the House, when received.

CHROMITE

*1238. **Shri C. R. Narasimhan:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether one of the largest deposits of chromite in the country occurs in Salem District; and

(b) if so, when the detailed investigation and mapping of the area will be taken up?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes, Sir.

(b) The area was mapped by the Geological Survey of India during 1943-44.

CENTRAL RESERVE POLICE AT NEEMUCH

*1239. **Shri U. M. Trivedi:** Will the Minister of **States** be pleased to state the number of officers and men in the Central Reserve Police at Neemuch who have not yet been confirmed?

The Minister of Home Affairs and States (Dr. Katju): The information is being collected and will be placed on the Table of the House when received.

GODAVARI FLOODS

*1240. **Shri Krishnacharya Joshi:** (a) Will the Minister of **States** be

pleased to state whether Government have received any report of damages caused by the recent floods of Godavari in the Hyderabad State?

(b) If so, how many villages have been affected by the floods there?

(c) What is the extent of loss to life and property?

The Minister of Home Affairs and States (Dr. Katju): (a) Yes.

(b) 58.

(c) It is estimated that about 25-30 persons lost their lives. About 500 houses were completely destroyed and about 4,500 houses partly damaged. Same hutments were also washed away.

CHOWKIDARS IN MANIPUR

639. Shri Rishang Keishing: Will the Minister of **States** be pleased to state:

(a) whether it is a fact that chowkidars are engaged in villages in the plains of Manipur in order to assist the local Government authorities in the administration and maintenance of law and order;

(b) if so, since when this system has been introduced in Manipur;

(c) what is the exact nature and scope of their functions and responsibilities;

(d) the number of chowkidars engaged at present in villages in the plains of Manipur;

(e) whether they are elected by the villagers or appointed by the local Government; and

(f) whether they are entitled to a monthly remuneration?

The Minister of Home Affairs and States (Dr. Katju): (a) to (f). The required information is being collected and will be placed on the Table of the House when received.

जैसलमेर में संगमरमर की खानें

६४०. **श्री चांडक** : क्या प्राकृतिक संसाधन तथा वैज्ञानिक अनुसंधान मंत्री यह बतलाने की कृपा करेंगे कि :

(क) क्या यह सत्य है कि राजस्थान के जैसलमेर डिवीजन में विभिन्न प्रकार के संगमरमर की खानें हैं ;

(ख) क्या यह सत्य है कि केवल इसी क्षेत्र में उत्तम प्रकार का संगमरमर मिलता है ;

(ग) इस क्षेत्र में कितने प्रकार का तथा किस किस रंग का संगमरमर मिलता है तथा इसे किस काम में लाया जाता है; तथा

(घ) क्या इस क्षेत्र का संगमरमर विदेशों को भी भेजा जाता है ?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes, Sir.

(b) No, Sir.

(c) Two varieties. The first called Jaisalmer marble is of yellow colour and has a fine uniform texture. It takes carving well and is resistant to weather. The second Abur stone is a fine red to red-brown fossiliferous 'shell marble'. It finds use in temples in Northern India.

(d) Information has been called for and will be laid on the Table of the House, when received.

सरकारी अधिकारियों के विरुद्ध मुकदमे

६४१. **श्री बादशाह गुप्त** : (क) क्या गृह-कार्य मंत्री यह बतलाने की कृपा करेंगे कि १९४७ तथा जुलाई १९५३ के बीच केन्द्रीय सरकार केकिन किन अधिकारियों के विरुद्ध अदालतों में मुकदमें दायर किए गए हैं ?

(ख) कितने मामलों में फैसले दिये जा चुके हैं ?

The Minister of Home Affairs and States (Dr. Katju): (a) and (b). The information is being collected and will be laid on the Table of the House in due course.

THE

ACC. NO.....

PARLIAMENTARY DEBATES Dated.....24.11.21

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

HOUSE OF THE PEOPLE

Friday, 11th September, 1953

The House met at a Quarter Past Eight of the Clock

[MR. DEPUTY-SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(See Part I)

9-20 A.M.

PAPERS LAID ON THE TABLE

NOTIFICATIONS UNDER MINES AND MINERALS (REGULATION AND DEVELOPMENT) ACT

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): I beg to lay on the Table a copy of each of the following notifications, under section 10 of the Mines and Minerals (Regulation and Development) Act, 1948:

(1) Minisry of Works, Mines and Power Notification No. MII-155 (24)-2, dated the 3rd November, 1949 (corrigendum).

(2) Ministry of Works, Mines and Power Notification No. MII-155 (24), dated the 8th November, 1949 (corrigendum).

(3) Ministry of Works, Mines and Power Notification No. MII-155 (56), dated the 9th December, 1949.

(4) Ministry of Works, Mines and Power Notification No. MII-155 (89), dated 30th March, 1950.

(5) Ministry of Works, Mines and Power Notification No. MII-155 (92), dated the 3rd May, 1950.

(6) Ministry of Works Mines and Power Notification No. MII-155 (92)-1, dated the 1st June, 1950.

(7) Ministry of Works, Mines and Power Notification No. MII-155 (92)-2, dated the 1st June, 1950.

(8) Ministry of Works, Mines and Power Notification No. MII-159 (2), dated the 2nd November, 1950.

(9) Ministry of Works, Mines and Power Notification No. MII-152 (65), dated the 2nd December, 1950.

(10) Ministry of Natural Resources & Scientific Research Notification No. MII-159(8), dated the 21st March, 1951.

(11) Ministry of Natural Resources & Scientific Research Notification No. MII-159(5), dated the 21st April, 1951.

(12) Ministry of Natural Resources & Scientific Research Notification No. MII-159(4), dated the 19th May, 1951.

(13) Ministry of Natural Resources & Scientific Research Notification No. MII-155(108), dated the 29th May, 1951.

(14) Ministry of Natural Resources & Scientific Research Notification No. MII-159(6), dated the 31st July, 1951.

[Shri K. D. Malaviya]

(15) Ministry of Natural Resources & Scientific Research Notification No. MII-159(6), dated the 14th/15th September, 1951 (corrigendum).

(16) Ministry of Natural Resources & Scientific Research Notification No. MII-159(11), dated the 26th October, 1952.

(17) Ministry of Natural Resources & Scientific Research Notification No. MII-155(92), dated the 29th October, 1951.

(18) Ministry of Natural Resources & Scientific Research Notification No. MII-159(10), dated the 7th November, 1951.

(19) Ministry of Natural Resources & Scientific Research Notification No. MII-159(7), dated the 15th December, 1951.

(20) Ministry of Natural Resources & Scientific Research Notification No. MII-159(12), dated the 1st February, 1952.

(21) Ministry of Natural Resources & Scientific Research Notification No. MII-167(1), dated the 2nd February, 1952.

(22) Ministry of Natural Resources & Scientific Research Notification No. MII-159(14), dated the 12th February, 1952.

(23) Ministry of Natural Resources & Scientific Research Notification No. MII-152(73), dated the 29th February, 1952.

(24) Ministry of Natural Resources & Scientific Research Notification No. MII-159(15), dated the 31st March, 1952.

(25) Ministry of Natural Resources & Scientific Research Notification No. MII-159(17), dated the 12th June, 1952.

(26) Ministry of Natural Resources & Scientific Research Notification No. MII-159(16), dated the 10th July, 1952.

(27) Ministry of Natural Resources & Scientific Research Notification No. MII-159(18), dated the 25th October, 1951.

(28) Ministry of Natural Resources & Scientific Research Notification No. MII-159(5), dated the 23rd February, 1953.

(29) Ministry of Natural Resources & Scientific Research Notification No. MII-159(20), dated the 27th February, 1953.

(30) Ministry of Natural Resources & Scientific Research Notification No. MII-152(151), dated the 11th April, 1953.

(31) Ministry of Natural Resources & Scientific Research Notification No. MII-152(105), dated the 22nd June, 1953.

(32) Ministry of Natural Resources & Scientific Research Notification No. MII-152(152), dated the 10th July, 1953.

(33) Ministry of Natural Resources & Scientific Research Notification No. MII-159(17), dated the 21st July, 1953 (corrigendum).

(34) Ministry of Natural Resources & Scientific Research Notification No. MII-152(103), dated the 29th July, 1953.

[*Placed in Library. See* No. S-120/53.]

DEMANDS FOR SUPPLEMENTARY GRANTS

The Deputy Minister of Finance (Shri M. C. Shah): I beg to lay on the Table of the House.....

Mr. Deputy-Speaker: Hon. Ministers will hereafter say: "On behalf of so-and-so I lay on the Table of the House", because the report on the

Order Paper gives a particular name. I have no objection to an hon. Minister entrusting it to another.

The Minister of Finance (Shri C. D. Deshmukh): I beg to present a statement showing Supplementary Demands for Grants for expenditure of the Central Government (excluding Railways) for the year 1953-54.

ESTATE DUTY BILL.—*contd.*

Clause 61.—(*Appeal against determination etc.*)

Mr. Deputy-Speaker: The House will now proceed with the further consideration of the Estate Duty Bill.

Several Hon. Members *rose*—

Mr. Deputy-Speaker: Hon. Members ought not to be standing while I am standing.

Clause 61 is under consideration. I was not here yesterday. I find some of these amendments are barred by the decision that was taken so far as the appellate tribunal is concerned. Was any hon. Member in possession of the House?

Shri U. M. Trivedi (Chittor): Yes.

Clause 61 makes a provision for an appeal against the determination by the Controller. Yesterday, in the course of opening the debate on this Clause....

Mr. Deputy-Speaker: I only want to say one thing as to what ought to be the scope of this appeal in relation to this particular Clause and the amendments. The question of the appellate tribunal was discussed when we were on the Clause relating to authorities, *viz.*, Clause 4. That was put to the vote of the House and then it was voted out. Therefore, so far as the appellate tribunal is concerned—call it by any name, whether it is an independent tribunal or a judicial appellate tribunal—it will not form the subject matter of the discussion now. Hon. Members may address themselves to other points.

Shri U. M. Trivedi: Yesterday when this debate started, this very point was mooted, that we should have no discussion on the question of the provision of an appellate Tribunal, and I will keep within limits in speaking about it. The only suggestion that I make is this. There is no need for providing either a separate appellate tribunal under this law, nor is there any necessity for following the pattern which is provided for under the Income-tax Act. Things have been changing. We had a provision under the Government of India Act of 1935 under Section 226. That provision was like this:

> "Until otherwise provided by Act of the appropriate legislature, no High Court shall have any original jurisdiction in any matter concerning the revenue, or concerning any act ordered or done in the collection thereof according to the usage and practice of the country or the law for the time being in force".

This provision which was there precluded the High Court from interfering in its original jurisdiction with any orders made in revenue matters, unless a particular provision by law was made. Now, this original jurisdiction under the High Court meant that this jurisdiction would be exercised by high prerogative writs, *i.e.* writs in the nature of *certiorari*, prohibition, or *mandamus* or *quo warranto* or orders of that nature. This provision under section 226 has been set at nought by the provision in the Constitution of India under article 225. Article 225 says in its proviso:

> "Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue, or concerning any act ordered or done in the collection thereof, was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction".

[Shri U. M. Trivedi]

Now, this having been provided for by our Constitution, I am asking why are we not taking advantage of it? Where is the necessity of providing a separate Board of Revenue to hear such appeals or hear appeals from particular types of orders when these could be easily provided for under the law without going to the extent of spending more money? Is it that this Government believes that our High Court Judges are non-nationals or is it that this Government is also afraid of the highly intelligent and integrated judiciary of India as the British Government was afraid of? Are they afraid of judicial determinations by highly qualified persons to the same extent as the British Government was? Why are they not taking advantage of this provision under article 225 and article 226? The provisions of article 226 are wider than the provisions of article 32 relating to the Supreme Court. Article 226 gives us a very wide provision so far as the High Courts are concerned:

> "Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government, within those territories directions, orders or writs, including writs in the nature of *habeas corpus, mandamus,* prohibition, *quo warranto* and *certiorari* ....."

In most of the cases the orders that are made can be easily remedied by a procedure of *mandamus* or prohibition or by a writ of *certiorari.*

Mr. Deputy-Speaker: Is that taken away now?

Shri U. M. Trivedi: I am coming in a minute to that particular proposition, Sir.

What happens is this. The High Courts have always held—each one of them—that whenever there is a specific remedy provided for under a particular law, they are chary of exercising the jurisdiction which is vested in them under article 226, and we cannot approach the High Courts direct on account of this particular trend of decisions that have been accepted by all the High Courts.

Mr. Deputy-Speaker: I did not follow it.

Shri U. M. Trivedi: I am sorry. Every High Court has held, Sir, that whenever there is any specific remedy provided under any special law, unless and until that remedy is exhausted, it is not going to listen to you. That is why I say that if you take out this remedy which is put in this Act, if this is taken out, then only you could pursue the remedy which is provided for under 226. My further contention is this: that we have up to date failed to make use of article 139 which gives vast powers to our Supreme Court. At present, as the law stands, article 32 limits the rights of our Supreme Court to issue proper writs only in cases which fall within the purview of Part III which governs the fundamental rights. Just beyond the fundamental rights you cannot approach the Supreme Court. But article 139 gives power to the Parliament:

> "Parliament may by law confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of *habeas corpus, mandamus,* prohibition, *quo warranto* and *certiorari* or any of them, for any purposes other than those mentioned in clause (2) of article 32".

My suggestion, therefore, is this, that instead of providing this Central Board of Revenue as a final arbiter, we may make use of this provision. I have not much experience of the Central Board of Revenue of the Union Government, but I know the various Boards of Revenue of the various States. I know what goes

on there. I also know that sometimes we—advocates of high standing—have to make certain very pertinent and impertinent remarks about the members of the Boards of Revenue so much so that it looks as if we are reciting *Bhagwat* before a buffalo, and the thing can never come to an end. They never understand things and it is useless for any advocate of any standing to appear before them. Under these circumstances, I do not know whether the Finance Minister would take the hint and would like to act upon it, but I would certainly request him that not only in this legislation but in all legislation of a similar nature for any future purposes also we must take some hint from the U.K. Acts where under the various Administration of Justice Acts of 1933, 1934 and 1935, similar provisions are made whereby instead of going to the Board of Revenue you can go direct to the High Court and have your points adjudicated upon

Mr. Deputy-Speaker: In respect of estate duty?

Shri U. M. Trivedi: Yes, on estate duty also. The Administration of Justice Act applies there and a writ is not prohibited. Under the Administration of Justice Act, 1935, you can now obtain an order of prohibition or *mandamus* or *certiorari* or orders of that nature quashing the proceeding. This is obtaining there. Why should we not follow a similar procedure here so far as our Supreme Court or our High Courts are concerned? With these remarks, I resume my seat.

Shri Pataskar (Jalgaon): I want to make a suggestion. I do not want to make a long speech, nor am I going to touch the question of tribunals. But what strikes me, Sir, is that there were two Bills which preceded the present Bill, and with respect to the second, the report of the Select Committee was submitted on the 31st March, 1949.

Mr. Deputy-Speaker: The hon. Member means 'Bills'?

Shri Pataskar: Yes. (There were two Bills predecessors to the present Bill and in regard to the last Bill, that is, the one that just preceded this, the report of the Select Committee was submitted on 31st March 1949. It contained a clause—clause 55—which gave powers to the High Court in respect of all these matters of valuation etc.) It was on the same lines as the powers which are given in the U.K. to the High Courts and County Courts there. I would like to know what has happened between 1949 and 1953 to say that we should try to run away from the High Court altogether. Well, one of the reasons which was given—which I could follow—by the hon. the Finance Minister was that of dilatoriness. Well, it does not appear to me that if this clause was allowed to remain as it was, there would have been greater dilatoriness than what prevails actually in the department to which this matter is going to be entrusted. I know the average duration of an appeal either before the Appellate Tribunal or the C.B.R. Is it not a fact that some cases are pending since 1944? And is it suggested that any High Court would spend as much time and be dilatory to the extent of 7 or 8 years in an appeal of this nature?

Sir, after the Constitution came into force we find there are so many constitutional applications which are submitted to the High Courts and they are promptly disposed of. Therefore, Sir, in a matter of taxation of this nature it is much better that we should have kept the original clause 55 and allow these matters to be finally disposed of by the High Courts. Somebody suggested—I do not exactly remember the name—that in the case of land revenue assessment, they say all these are executive matters and therefore the judiciary should not be allowed to interfere. I know, Sir, in those days of Foreign British rule the Revenue Jurisdiction Act was there, and all matters of this nature were taken out of the jurisdiction of the High Courts. I know that every

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body was uniformly contending that the High Courts or the judicial authorities must be given the power to do justice to the subject, against any taxation. As an old member of the Bombay Legislative Council I remember everybody then said that even in respect of land revenue matters, they must be allowed to be taken to the High Courts. I found the other day some of my hon. friends saying while the revenue matters are not allowed to go up to the High Courts why should this go. Therefore, I want to know what has happened between 1949 and 1953 which warrants this change.

Shri Gadgil (Poona Central): Political changes.

Shri Pataskar: My hon. friend Mr. Gadgil says, political changes. I think that is not correct. Is it desirable that because of political changes we should not allow matters of taxation to be taken up to the High Court? I am not speaking only of this Bill but I am speaking of the general tendency which is not proper. If you say that everything is to be concentrated in the hands of the executive, the trend is unfortunate. Since Mr. Gadgil has interrupted me I would like to refer to law and order at page 214—I do not know whether he would relish it. 'Speed in conception and efficiency in execution', I do not know whether it will be attained by the jurisdiction of the High Court. It was efficiency in executive power which was in their view more important than the quality of government. That is the only thing that I can say. The High Courts are there, the judicial tribunals are there and if Government is going to do anything wrong which has escaped the attention of anybody they should be set right. Therefore in matters of taxation of this nature the tendency to give every power to the executive is not good. I will not dilate upon this here and I will do so when I come to section 61.

So far as this clause is concerned, I would like to hear from the hon. Finance Minister what has happened between 1949 and 1953 that we have changed that clause 55 which was there in the first Bill and also in the Second Bill and, as I stated up to the 31st March, 1951, when the Select Committee on the second Bill made its report; it was there untouched. It was taken from the United Kingdom provisions as every other provision has been taken. I would therefore like to know whether it is a distrust of the highest courts. So far as dilatoriness is concerned, I would like to know whether in the Appellate Tribunals and the Central Board of Revenue matters are not pending in appeal for a very long time. Therefore, is it suggested that only on that ground the High Courts are not being trusted or is it for something else? My hon. friend Mr. Gadgil says that political changes have taken place. Political changes may have taken place. Sir, we have framed a Constitution that was passed in 1950. Does it not try to establish democratic institutions, parliamentary democracy in this country and is not the basis of parliamentary democracy that there should be the right to approach the highest courts in the land? Or does parliamentary democracy only mean that every possible power should be concentrated in the hands of the executive government?

Shri N. C. Chatterjee (Hooghly): May I make a suggestion, Sir, which would shorten this debate?

Mr. Deputy-Speaker: Why not allow Mr. Dube to start?

Shri N. C. Chatterjee: I am going to make a suggestion for an amendment, Sir. You were not here when I pointed out that the scope of appeal is very limited as it stands in clause 61. We pointed out, Sir, that it is really limited to questions of valuation or to the amount of estate duty determined by the Controller or denial of liability to account etc., or objection to penalty. But, there

are several other matters which are very serious. Take for instance an adjudication that a gift is not *bona fide* or that the donor was not entirely excluded and so on. The hon. Finance Minister was good enough to suggest that he was prepared to consider any amendment. There was no difference between our point of view and that of the Government if proper wording could be suggested. I have just handed over a copy to the hon. Finance Minister. He asked to find out any alternative. Mr. Tulsidas's amendment is very wide in terms. You will find it, Sir, under clause 60, No. 178. It is wrongly printed; it should be under clause 61. You will find, Sir, that he has put in, "or objections to any order, determination, decision or levy of penalty by the Controller under any section of this Act". The Finance Minister has rightly pointed out that this is very wide. Even interlocutory orders refusing adjournment may come up on appeal. It is not our object, Sir, I am suggesting that:

In page 28, line 48, *after* "section 54", *insert*:

> "or any final order or adjudication under the provisions of this Act by the Controller which will have the effect of imposing liability or obligation for payment of estate duty or any order by the Controller refusing to grant a discharge or exemption certificate".

I hope, Sir, that the hon. Finance Minister will kindly see that. You know, Sir, the Privy Council has settled that we cannot go up against interlocutory orders. All that I am suggesting is that it should be clarified that appeal will lie against any final order of adjudication under the provisions of this Act which will have the effect of imposing a liability or obligation. Supposing, Sir, certain gifts are ruled out or it is held that they are not *bona fide* transfers or that there was no entire exclusion of the donor or there was no *bona fide* assumption of possession. Other things would be more or less a matter of calculation. The hon. Finance Minister has suggested that there was no objection to that. Possibly the language was not clear enough for that purpose. Therefore I am suggesting, Sir, that this should be accepted. I am adding this: 'or any order by the Controller refusing to grant a discharge or exemption certificate'. That is also very important. Otherwise, it may take years to complete a valuation and in the meantime a particular piece of the family property may have a good buyer and it could not be sold. The Controller says, 'I won't accept it and you cannot go up to the Board and appeal'. I hope the hon. Finance Minister will accept the amendment.

Mr. Deputy-Speaker: I will treat the amendment as moved.

The Minister of Finance (Shri C. D. Deshmukh): Mr. Deputy-Speaker, Sir, I will accept this amendment of the amendment which Mr. Chatterjee has just suggested.

Mr. Deputy-Speaker: I will put it to the House later and just now see whether other amendments are barred.

Shri U. S. Dube (Basti Distt.—North): In regard to the amendment for the appointment of an Appellate Tribunal, under Section 61, my submission is that....

Mr. Deputy-Speaker: Hon. Member's amendment is that "District Judge may be substituted for the Board". I do not say that that is barred.

Shri U. S. Dube: That is all right.

Mr. Deputy-Speaker: A District Judge is not a Tribunal which is to be created in one of the usual links in the Judicial courts.

Shri U. S. Dube: Speaking generally, Sir, I am of the opinion that the levy and collection of duties is the function of the state. It is not a matter which could or should be taken to the law courts because if you started doing that there will be

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millions of cases pending before the courts and the whole law, as it stands, may have to be changed. So many other questions would arise but in this particular matter I think an appeal should be allowed to the District Judge or any other judicial authority.

The Bill that is before the House is of a very complicated nature and the provisions of the English Act have already been incorporated in the language which is very involved and difficult to understand. I take it that it would be very difficult for the Board to understand the language of the various clauses that have been introduced in this Bill. It is for that reason that, I think, in the matter that exists here exception should be made and the appeals should be allowed to the judicial authority. It may be to the High Court or to the District Judge but it should not be to any person who has a qualification inferior to that of a District Judge. That is all that I have to submit in this connection.

Shri N. C. Chatterjee: It has been pointed out to me having regard to my amendment that some consequential amendment is necessary in line 48. "The person aggrieved may within ninety days of the receipt of the notice of demand". Now you should see whether it should be "90 days of the receipt of the notice of demand" under clause 56 or from the date of the order of adjudication.

Mr. Deputy-Speaker: Final order?

Shri N. C. Chatterjee: Yes, Sir.

Shri Gadgil (Poona Central): Within ninety days of the order appealed against or the adjudication appealed against.

Shri C. D. Deshmukh: Order or adjudication appealed against because there are two kinds of orders?

Shri N. C. Chatterjee: After clause 56 insert those words.

Shri C. D. Deshmukh: "Appealed against the order for adjudication of the Controller" then the words may run.

Mr. Deputy-Speaker: The final order or adjudication by the Controller. There is one final order. I will call it order.

Pandit Thakur Das Bhargava (Gurgaon): May I suggest one thing? Supposing there is an order passed and that order is an order appealed against and subsequently when the final order is passed the person makes an appeal and wants to dispute the previous order not appealed against. Now according to the provisions of this clause the C.B.R. is entitled to pass any order they think fit. Whereas in the other case there is an order which is not appealed against. My fear is that that order not appealed against may become final and that order will not be allowed to be impugned in the final appeal.

Mr. Deputy-Speaker: Hon. Members are aware that when a preliminary decree is passed it can be raised in a final order. But that is different from the interim orders passed in the course of the proceedings.

Pandit Thakur Das Bhargava: Today there is an order and the final appeal is filed. Then according to the provisions of this section the authority is fully entitled to go into the matter. My own fear is that in a case of this nature it will be argued subsequently that that order cannot be impugned. Similarly in regard to orders affecting merits of the case you have made certain orders appealable but there may be certain other orders which are not appealable. In regard to those orders also exception can be taken at the time of the final appeal for they are not appealable as such. Even under the Civil Procedure Code there are certain orders which are not appealable but at the time of the final appeal, exception is taken in regard to them and they are gone into. I want a safeguard against

that. Subsequently it may not be argued that such orders as were appealable had not become final and they could not be taken exception to.

Mr. Deputy-Speaker: Another interlocutory order is taken to be final or that they could not be re-opened in the final adjudication appeal against the final order. At the time of application for demand of documents the matter can be taken up in appeal against the judgment of the suit. I think the same procedure is followed here. All interlocutory orders can be agitated in the final appeal.

Pandit Thakur Das Bhargava: There is no section applying the principles of the Civil Procedure Code to appeals before the C.B.R. under this Bill. Since appealable order has not been appealed against, it has become final. I want a safeguard against this.

Mr. Deputy-Speaker: Whereas the appealable order—an interlocutory order—has an appeal against it—to that extent it becomes not final. Let him immediately take advantage of that instead of searching for the other one.

Pandit Thakur Das Bhargava: The right of appeal is discretionary. Today I may not take exception but at the time of the final order I can take exception to the order. That right will be taken away if you put "90 days" and it may be argued subsequently that such orders have become final. In my opinion they do not become final unless they are passed by the C.B.R.

Mr. Deputy-Speaker: If these words are not here how does it improve the situation?

Shri N. C. Chatterjee: That cannot possibly be raised. Because when the final determination is made and the valuation is fixed you will get the benefit and the estate duty will be determined by the Controller. Suppose I have made an application and that application is shut out. I can certainly urge before the Court that it has been wrongly rejected and, therefore, my valuation ought to be reduced.

Shri S. S. More (Sholapur): Supposing under Clause 9 in an interlocutory order a decision is given on that order. According to the latest modification an appeal has been provided against that order. The final order on the total assessment of all the property of the deceased, is passed by the Controller. Now will it be permissible for the appellant who has not taken advantage of the permission of appeal against the order under Clause 9, to agitate on all these points by simply filing the last appeal in final order. Therefore, there must be some finality. After an advantage has been provided for, it is up to the appellant or the aggrieved person to take advantage at each stage. He cannot say that "let all my grievances be accumulated and I will see that all of them are covered by the final appeal."

Once you are giving a right there must also be a corresponding duty. If that right is not exploited at a particular juncture then he must be debarred; otherwise there may be no finality. At different stages, different matters will be protected over a period of time.

Mr. Deputy-Speaker: Is there any clause in the Civil Procedure Code where, when an appeal is provided against a particular order in a particular case and there is an appeal against the final order and the appeal is not preferred against the other order at an earlier stage and it becomes conclusive for all practical purposes, it can be re-opened once again in the final order? Will there be a difference in this case only?

Shri S. S. More: The Civil Procedure Code is there for the purposes of guiding the procedure. As far as the proceedings before the court is concerned....

Mr. Deputy-Speaker: On the principle of natural justice, when an appeal is provided but a prior order is not taken advantage of, there is no

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meaning in lengthening the time in the final order.

Pandit Thakur Das Bhargava: The present position is quite clear. In the Civil Procedure Code, if there is a right given, it is left to the option of the person, whether he appeals or not. At the ultimate hearing, everything can be urged against the decree.

Mr. Deputy-Speaker: What is that everything? Nothing can be urged. Wherever it is conclusive, it becomes conclusive. As a matter of fact, there is an *ex parte* decree. There is a provision for setting it aside under order 9, rule 13, if it is merely an appeal against the decree.

Pandit Thakur Das Bhargava: We are appealing against the order, not against the decree.

Mr. Deputy-Speaker: There is the specific amendment by Mr. Chatterjee. What is the other amendment?

Pandit Thakur Das Bhargava: We want that at the time of the final appeal, if a person does not appeal from an interlocutory order, his rights may be safeguarded. At the time of the final appeal, he may be able, to object to everything.

Mr. Deputy-Speaker: That does not arise out of the amendment of Mr. Chatterjee. It is independent of Mr. Chatterjee's amendment which tries to make a provision for a situation for which there has been no provision so far; it does not militate against Mr. Chatterjee's amendment. Notwithstanding the objection raised by Mr. Bhargava, this is independent. If Mr. Bhargava wants to put in anything, he must have given notice, or even now, he can suggest what exactly is to be done. The Finance Minister.

Shri C. D. Deshmukh: You have forestalled me. The genesis of this amendment is that we are not quite certain that every matter which we wanted to make appealable has been provided for. Therefore we resort to certain sections for the issue of certificates. It may be argued that that is not a question of valuation or accountability or determination of duty but something else. If a certificate is not given, then there will be no demand notice, because the only period of limitation is from the receipt of a demand notice. Therefore, we provided another period—ninety days—from the passing of the order, refusing to grant a certificate in this case. Now, that does not enable the party to agitate for the valuation, determination and so on, because there is, no period to start from. Similarly, there may be, other adjudications which will be outside the scope of this clause. Therefore, any one who has to entertain an appeal will have to determine first which of the periods of limitation applies to this—is it a matter which can be governed by the first period of limitation, namely, ninety days from the receipt of the demand notice, or, is it a kind of order which is not covered by this, and, therefore it is a final order or adjudication or order granting or refusing a certificate, in which case the other period of limitation will come into effect.

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Mr. Deputy-Speaker: He is thinking of a different category of interim orders for which appeals are not provided.

Shri C. D. Deshmukh: We have not provided for appeals against interim orders.

Mr. Deputy-Speaker: Then there is no difficulty. I shall put this amendment to the vote of the House. I would like to know the exact language to be put down.

Shri C. D. Deshmukh: In page 28, line 48, *after* "section 54", *insert*:

> "or any final order or adjudication under the provisions of this Act by the Controller....."

etc.

I have got a copy.

Shri N. C. Chatterjee: After the words "section 54", and between the words "within ninety days of the receipt of the notice of demand under section 56." on page 28, line 48—That is where it should be added.

Mr. Deputy-Speaker: Yes; so add "or any final order or adjudication.." etc.

Shri S. S. More: These words must precede, because the notice of demand will be the final act, and all these acts will be previous to the final demand notice. So, these words may be introduced from the point of view of sequence, because the demand notice will be a later process.

Mr. Deputy-Speaker: The provision is for a contingency where no notice is given. Therefore, it does not matter. Now, I will put this to the vote of the House.

Shri Sinhasan Singh (Gorakhpur Distt.—South): In clause 56, the word 'order' refers to the adjudicatory order. We have not provided for any appeal.

Shri N. C. Chatterjee: I mean the order refusing exemption certificate, or any final order.

Mr. Deputy-Speaker: It refers to any of the foregoing orders.

Shri Sinhasan Singh: Different kinds of orders will not be available. If one man does not appeal against a particular order, and if he appeals after the final demand notice, it must be looked into. When we provide for an appeal against a particular order, one man may not choose to appeal against that order, but may appeal against the last order. Unless he is barred from appealing against the original order, he may raise the point again. This point may be made clear.

Mr. Deputy-Speaker: "Any person objecting to the valuation made or the estate duty determined by the Controller."—I am trying to fit in the amendment along with the original portion,—what exactly it means. "Any person objecting to the valuation made or the estate duty determined by the Controller or denying his liability to account for the duty payable in respect of any property or objecting to any penalty levied by the Controller under section 54,....

Shri C. D. Deshmukh: "Or to any final order," etc.

Mr. Deputy-Speaker: As it stands; "within ninety days of the receipt of the notice of demand under section 56, appeal to the Board in the prescribed.....manner." So, the order is passed there. He need not immediately rush; he can wait until the demand is settled. That is the intention.

Shri C. D. Deshmukh: "Or objecting to any final order." "Objecting to any penalty levied by the Controller under section 54." That is to say, "objecting." I think it would be better if we took some time over drafting.

Mr. Deputy-Speaker: There is the point raised by Pandit Thakur Das Bhargava also.

Shri C. D. Deshmukh: I am not so much worried about his objection, as this. We have put two periods of limitation. The question would arise which of the periods of limitation applies to the penalty and which of the periods of limitation would apply to the final order. We have not said respectively. A person may argue that option is allowed within nine days of the issue of the order and not of demand.

Mr. Deputy-Speaker: I think this portion may stand over.

Liability to pay assumes the form of an order at an earlier stage, as the issues are decided one after another before a final adjudication is made. So far as that is concerned it is a final order, but under the existing clause now as framed there is no period of limitation from the date of the order, but from the date of the demand notice. Possibly, by this

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amendment that period will be restricted, unless some care is taken.

Shri C. D. Deshmukh: The drafting may be on these lines: "A person denying his liability to account for the duty payable in respect of any property, or objecting to (a) valuation made of the duty determined by the Controller, (b) objecting to any penalty (c) objecting to any final order, may appeal in the case of so, and so within ninety days of the demand: in other cases within ninety days of the order."

Mr. Deputy-Speaker: Hon. Members will sit together and evolve a suitable amendment.

Shri Pataskar: Looking to the scheme of the Act, the second amendment is unnecessary. So far as clause 61 of the Bill is concerned they want to give the right of appeal only after the demand is made. Therefore, I think that is the better arrangement. Why is it necessary to prescribe different periods of limitation.

Mr. Deputy-Speaker: That will also be taken into consideration by the Finance Minister.

Ch. Hyder Husein: (Gonda Distt.—North): Sir, I want to suggest that clause 61 may be recast in this way:

> "A person shall have a right of appeal in respect of the following within ninety days."

Mr. Deputy-Speaker: Ninety days is the same in either case. The point is what is the starting point of limitation.

Ch. Hyder Husein: That should be given in respect of each sub-clause:

> "An appeal shall be preferred within ninety days: (i) In the case of so and so, etc."

The *terminus a quo* may be mentioned in each sub-clause.

Shri C. D. Deshmukh: Sir, I do not propose to make a long speech, because I find I have made a very long one in connection with sub-clause (4). The only point I have to answer is what is it that made us change our mind since 1946. The 1946 arrangement was that the Board was the assessing authority: then the Board could move the High Court for an enquiry, then on the report of the enquiry officers the court would give their finding. The scheme that we have adopted is that the Board is an intermediate appellate authority for the reasons I have pointed out the other day. Cases will still go to the High Court, but they are confined to questions of law and questions of law would be very many in this.

The only new thing we have evolved is the scheme of valuation by valuers. We have devoted a great deal of thought to this and we have accepted certain suggestions, that is to say there should be three valuers, their decisions shall be final and it shall be communicated and so on. All that I am arguing is that in view of the fact that generally I have given some justification for this kind of administrative justice, as it was characterised by hon. Members in the case of this new legislation, let us have some experience. If we find that this arrangement does not work, then as I said I am free to take notice of all that has been said now and come forward with an amendment. If, on the other hand, we start from now with appeals on facts also to High Court and we find in the circumstances of this country, it does not work or it leads to interminable delays, because we have not yet conquered delays in judicial proceedings in High Courts, then it would be very difficult to come back to any kind of administrative arrangements.

Therefore I would ask the House to give a fair chance to this and accept my assurance that if we find that this system is not working, I shall be the first to promote an amendment with a view to establishing some kind of an appellate authority for consideration of facts

also. The only other thing I have to point out is that in any case, once questions of law have been determined, they would have to rely on valuers, experts in various kinds of valuation. Valuation is the life-blood of this measure. That is all I wish to say. At this moment, I am not able to accept any amendment.

Shrimati Sushama Sen (Bhagalpur South): I withdraw my amendment Nos. 296 and 297 after hearing the Finance Minister.

Mr. Deputy-Speaker: I am going to rule them out of order. Amendments Nos. 181, 182, 183, 296 and 297 which relate to the appointment of an appellate tribunal, which has been disposed of, are barred by the decision taken on clause 4. The other amendments I will put to the vote of the House. So far as drafting the clause is concerned, it will be taken up later on.

I think amendment No. 178 of Shri Tulsidas is barred by the amendment moved by Mr. Chatterjee and accepted by the House.

Shri Tulsidas (Mehsana West): I beg to withdraw it, Sir.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: Amendments Nos. 295 and 329 are also barred.

Shri Mulchand Dube (Farrukhabad Distt.—North): I beg to withdraw my amendment No. 565.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: Now, we have got only amendments Nos. 396 and 332.

The question is:

In page 29, line 17, *for* "borne by" *substitute* "paid to".

The motion was negatived.

Mr. Deputy-Speaker: Now, as regards amendment No. 332 moved by Shri N. C. Chatterjee.....

Shri N. C. Chatterjee: My suggestion is that if you strike out the words "Board of" from the expression "Board of Valuers", any reference to the Board will be removed and it should be acceptable to the hon. Finance Minister.

Shri C. D. Deshmukh: Then I have no objection to this, but it will have to be properly drafted and then brought before the House.

Mr. Deputy-Speaker: Amendment No. 332 will stand over for further drafting. The whole clause 61 will, if necessary, be re-drafted and after all other amendments have been disposed of then it will be put to the vote of the House.

Clause 62.—

Shri Tulsidas: I beg to move:

(i) In page 29, lines 26 and 27, *after* "sub-section (3) of section 61" *insert* "or sub-section (5) of section 61".

(ii) In page 29, line 27, *after* "the person accountable" *insert* "or the Controller".

(iii) In page 29, lines 28 and 29, *for* "five hundred rupees" *substitute* "one hundred rupees".

(iv) In page 29, line 40, *for* "three months" *substitute* "six months".

(v) In page 30, *after* line 28, *insert*:

> "Provided that in case the case is referred to the Supreme Court under sub-section (4) of this section the party shall pay, if required to do so, the cost only as if reference has been made to a High Court and not the Supreme Court".

Shri N. C. Chatterjee: I beg to move:

In page 30, *after* line 28, *insert*:

"Provided that where a case is referred to the Supreme Court under sub-section (4) of this section the party shall pay the cost, if so required, as if the reference has been to a High Court and not to the Supreme Court".

Mr. Deputy-Speaker: All these amendments to clause 62 are now before the House for discussion.

Shri U. M. Trivedi: I have also given notice of an amendment today.

Shri C. D. Deshmukh: I am sorry I have not received it yet, and so it cannot be taken now.

Shri Tulsidas: Provision has been made in this clause for a reference to the High Court against the orders of the Board on any question of law arising out of such order. (*Interruption.*)

Mr. Deputy-Speaker: Order, order. If an hon. Member is not able to control his coughing, he has just to draw it out or spit and so he will kindly go out and do it. I am extremely sorry that although I have been noticing this thing for some time I have not mustered up my courage to say this so far. But, now, whoever has got to spit, he should go out in the Lobby and it is not right to spit in the House. If still he is not able to control his cough, it is better that he keeps out in the Lobby. Let me remind the hon. Members that this House is a supreme body and in the case of any kind of such unfortunate things which cannot be controlled by nature, it is better that they are not perpetrated here on the floor of the House. I do not like to make any exception.

Shri Tulsidas: As I just now mentioned, this clause has a provision for reference to the High Court against the orders of the Board on any question of law arising out of such order and also for a reference by the Board direct to the Supreme Court under certain circumstances. It is necessary, in my opinion, that appeal should be provided here to the High Court against the decisions of the valuers under sub-clause (4) of 61. That is one of the amendments. Questions of law are likely to arise even in the determination of the value of an estate. I feel there will be several such occasions in the case of valuations. For example, as regards controlled companies, there will be a number of questions of law and therefore any valuation of the shares of the controlled companies is only to be referred to the Board of Valuers. Various rules and regulations framed for the purpose of inspection under clause 17(5) would have to be interpreted. It is therefore necessary that at least in such cases where questions of law are involved, appeal should be provided for to the High Courts.

Shri C. D. Deshmukh: Do you refer to sub-section (5) or do you mean sub-section (4)? I don't find any reference to valuation in (5), and, his arguments do not seem to apply to that.

Shri Tulsidas: I am sorry, Sir. It should really be sub-section (4).

Mr. Deputy-Speaker: In amendment No. 190, *for* "sub-section (5)", *read* "sub-section (4)".

Shri Tulsidas: Under clause 62 for an appeal we have to deposit Rs. 500. If there is an application to the Board in the prescribed form, I suggest that instead of Rs. 500 there may be a fee of Rs. 100. I do not know why such a large amount has been fixed as fee in respect of the application to the Board. I feel, particularly when this is a new legislation that is being enacted, that we should have a smaller fee in order to get more decisions on the part of the Board as well as the courts.

My other amendment is that for "three months" substitute "six months". The clause says that "if, on an application made under sub-section (1), the Board rejects it on the ground that it is time-barred, the person accountable may, within three months from the date on which he is served with a notice of refusal or rejection, as the case may be, apply to the High Court...etc." I have suggested six months because, as you know, Sir, the number of clauses are so wide and it is very difficult to understand some of them. It will take some time before one knows the implications.

Mr. Deputy-Speaker: They were giving only six months even for an appeal to the Privy Council, before the advent of the aeroplane. When it is inside the country, particularly when it is not even to the Supreme Court but to the High Court the hon. Member wants six months. Anyhow, whether it should be three months or six months I am not here to argue against it.

Shri Tulsidas: These clauses are so worded, Sir, that there will be difficulty in the initial stages.

Mr. Deputy-Speaker: Ordinarily the time for appeal to the High Court is only three months.

Shri S. S. More: Procrastination is the hand-maid of evasion.

Shri Tulsidas: That is all, Sir. I have finished.

Shri N. C. Chatterjee: Under clause 62 the fee ought to be Rs. 100. Under clause (1) of section 66 of the Income-tax Act also that is the fee. Therefore a higher fee should not be levied under this.

Then with regard to sub-clause (b) my friend has suggested a time of six months. I think six months is also to be found in section 66(2) of the Income-tax Act.

The third thing we are suggesting is that in sub-clause (8) at page 30 a special provision should be made that where a case is referred to the Supreme Court under sub-section (4) of this Section, the party shall pay the cost, if so required, as if the reference has been to a High Court and not to the Supreme Court. I have already moved an amendment in this respect (No. 340). If you will please turn to page 30, sub-clause (8) you will find it stated there that "the costs of any reference to the High Court or to the Supreme Court shall be in the discretion of the Court". What we are suggesting is that in a case covered by sub-clause (4) where the case is referred to the Supreme Court under sub-clause (4) of this clause, the party shall pay the cost as if the reference were to the High Court and not to the Supreme Court. If you will please refer to sub-clause (4) you will find that it provides that when the Board is of opinion that on account of the importance of any question of law involved in the case or on account of a conflict in the decisions of different High Courts in respect of any particular question of law arising therefrom, it is expedient that the case should be stated direct to the Supreme Court, the Board may state the case direct to the Supreme Court. I think it is a reasonable suggestion that when the Board, either on account of the importance of any question of law involved in the case or on account of a conflict in the decisions of different High Courts, states the case direct to the Supreme Court the cost should be on the High Court scale, because the Supreme Court is only taking the place of the High Court in this respect. And the higher cost of the Supreme Court should not be levied. I think this suggestion should be accepted.

Pandit Thakur Das Bhargava: Regarding the fee I think Rs. 100 is more than sufficient. At present we have got it so far as the Income-tax Appellate Tribunal is concerned. If it is fixed at Rs. 500 only rich men can appeal and poor men cannot take advantage of it, although it is for the benefit of all.

[Pandit Thakur Das Bhargava]

In respect of the suggestion to fix the period at six months also, when the period for realisation is unlimited and for levy also it is twelve years, there is no harm in having six months. After all this is a new law and people will take time to consult before having resort to section 62.

There is one more question that I want to bring to the notice of the House. In sub-clause (7) we have the provision that after the case has been disposed of by the Supreme Court or High Court the Board shall pass such orders as are necessary to dispose of the case conformably to such judgment. My humble submission is that in some cases it may happen that the person is dissatisfied with the order made by the Board. According to this provision the Board shall pass such orders as are necessary conformably to such judgment. But cases may happen where a party may feel aggrieved about the order made by the Board, and the order may not have been in conformity with such judgment. My submission is that in such a case the final word should rest with the court which passed the judgment, either the Supreme Court or the High Court. I should think therefore that nothing will be lost if we make a provision that, in a case where a party feels aggrieved by the order made by the Board upon such judgment, there may be an appeal to the proper court which passed the Judgment so as to see whether the order made by the Board has been in conformity with the judgment or otherwise. Because, in the final execution or the final shape of the order there might be a difference of opinion. We have not provided for that. The hon. the Finance Minister may kindly look into it, and, if he agrees, he may make some provision whereby real and full effect may be given to the final order passed by the High Court or Supreme Court and it may not be left to the Board alone which may interpret the judgment as they choose.

Shri Gadgil: What the costs should be is equally within the discretion of the Supreme Court. If the Supreme Court knows that the reference has been made to it by the Board without going to the High Court, it will determine the costs accordingly.

Pandit Thakur Das Bhargava: I am afraid my hon. friend has not followed me and is referring to something else. The point is this, that when a case goes to the High Court or the Supreme Court a final order is passed. After it is passed, then in conformity with that final order or judgment the Board shall pass an order —under clause 7—which will be executed by the Board. While interpreting that order there might be a difference of opinion between the Board and the person, either against or in favour of the order that has been passed. In order to see that the real intention of the order is carried out according to the meaning which the appellant in the case likes to put on it, it should be within the discretion of the court which passes the order to get it examined whether the order passed by the Board is in conformity with the order passed by it or not.

Mr. Deputy-Speaker: There is a judgment and a decree If an order is passed, the reasons are set out, and then finally what exactly the operative portion is. Is that what he means?

Pandit Thakur Das Bhargava: Yes.

Mr. Deputy-Speaker: So that the court which passes the judgment may indicate in clear terms what the operative portion, the final conclusion is?

Shri C. D. Deshmukh: As far as I understand, he states that an appeal should be provided against the final order of the Board.

Pandit Thakur Das Bhargava: The court which passed the order knows best what was in the mind of the judge. The appellant may feel a grievance against the final order of of the Board. It may or may not

conform to the decision of the Supreme Court.

Mr. Deputy-Speaker: What is the suggestion?

Pandit Thakur Das Bhargava: Some provision should be made by virtue of which the...

Mr. Deputy-Speaker: Something like a decree.

Pandit Thakur Das Bhargava: Yes; or a final order so that the order of the Board may be in conformity with the judgment.

Shri C. D. Deshmukh: He wants an appeal to be provided for even against the final order of the Board following the decision of the court.

Pandit Thakur Das Bhargava: Yes; to give effect to the decision of the court.

Mr. Deputy-Speaker: Ordinarily in every court, there is a judgment and a decree. In this case, there is the decision of the Board setting out the reasons for coming to the particular conclusion. That is called a judgment though it is called the final order here. On the operative part, a decree again follows so that an appeal may be preferred against that, or something like that.

Shri S. S. More: Why should, there be any decree?

Mr. Deputy-Speaker: Otherwise, you do not clinch the issue.

Shri S. S. More: There are orders passed by the Revenue authorities. Some contentions are raised. They are supposed to apply their mind. They come to a decision. Then an order follows. Either an appeal is accepted or rejected. That very order is enforced. There is no decree. A Decree is an unnecessary duplication.

Pandit Thakur Das Bhargava: That order is not enforced. On the basis of that judgment, another order will be passed by the Board according to sub-clause (7). If the Board, with the best of intentions, again interprets the judgment of the Supreme Court in a way which is not in conformity with the view of the appellant, in that case, some remedy should be provided.

Shri K. K. Basu (Diamond Harbour): If it is different, what will be the remedy?

Mr. Deputy-Speaker: In conformity with the judgment of the Supreme Court, it is the Board that has to interpret and pass the final order. Does this not arise with respect to all references on particular points of law? A reference is made to the High Court and after the decision of the High Court, it comes back to the original court. Then, the rest of the points in dispute are disposed of in the light of that judgment or order or decision of the High Court. Likewise, why should it not be construed here. A matter of law goes to the Supreme Court. The opinion of the Supreme Court is incorporated and on the basis of that, final orders are passed by the Board. What is the difference?

Shri S. S. More: Even supposing that in interpreting the orders of the Supreme Court the Executive authority commits some mistake, under the powers of superintendence, etc., the party can go again back to the Supreme Court

Pandit Thakur Das Bhargava: There is no power of superintendence. My hon. friend is assuming as if we are governed by the Code of Civil Procedure in regard to these matters. Where is the power to superintendence? It is exactly the power of superintendence that I am asking the Finance Minister to provide.

Shri S. S. More: Under article 227, the Board will have to be considered to be a tribunal for this purpose and the Supreme Court will have that power, and the High Court also in some cases. I cannot exactly quote the article.

Shri R. K. Chaudhury (Gauhati): Article 227.

Shri S. S. More: The power of superintendence is there.

Shri C. D. Deshmukh: This is a difficulty which cannot be surmounted by the provision of any number of appeals. The question is how the order is to be passed by the Board, in conformity with the decision of the court on a reference. The hon. Member says that it is possible that the party may have a grievance that the Board's order is not in conformity with such a decision, in which case, he says, provide for an appeal. In an appeal, the High Court may again change the language and say, this is what we wanted. But the High Court cannot pass the final order. The High Court only gives the decision on a reference. Every time it will come back to the Board. What I feel in this matter is—I have not given thought to it.....

Mr. Deputy-Speaker: Short of that, he wants the Supreme Court to state in specific terms, after the judgment of the Supreme Court. I do not find there is any difference.

Shri C. D. Deshmukh: We cannot impose a duty on the Supreme Court as to how it should draw up the judgment. It is not a judgment. It is a decision on a reference. There must be some inherent power in the Supreme Court. There is always article 226 which is the final refuge of every one of us who feels that injustice is done. Should there be such an occasion where it is felt that there is a discrepancy between the decision given by the Court and the form in which the final order is issued, I think it would still be open to a party to go to the court and have the matter remedied.

Shri K. K. Basu: As in the case of Income-tax references.

Shri Tek Chand (Ambala-Simla): It is a cardinal principle of law, known to all the world since the days of the Magna Carta that justice should neither be denied, nor sold nor delayed.

Mr. Deputy-Speaker: We are going to the first principles.

Shri Tek Chand: Sometimes, it is very desirable. The law in the making, that is the present Bill, is one such law which gives the go by to the first principles. If the price that justice demands for starting its functioning is Rs. 500/-, it amounts in most cases to denial of justice and in some cases to sale of justice.

Shri C. D. Deshmukh: I am already convinced.

Mr. Deputy-Speaker: The hon. Member may avoid all that strength and emphasis. I think the hon. Finance Minister is terribly afraid and has consented to Rs. 100/-.

Shri Tek Chand: About Rs. 500/- I will first address myself. The hon. Finance Minister during his visit to Paris might have visited the Palace of Justice there and might have seen the motto on the forefront.

Shri C. D. Deshmukh: If it is in connection with Rs. 500/-. I have already been repressed by the softer persuasion of the other hon. Members who have already spoken.

Mr. Deputy-Speaker: He is willing to reduce it from Rs. 500 to Rs. 100. Going to Paris will cost Rs. 5000/-.

Shri Tek Chand: I am grateful to him it is a very important point. It is a point which is very often ignored by...

Mr. Deputy-Speaker: He is agreeable to it. The hon. Member may proceed to any other point.

Shri S. S. More: Let us have some knowledge of Paris.

Shri Tek Chand: I am coming to the other point in a sentence. My

submission is that the greatest principle is that justice should be gratis. The moto is:

"Le Justice est gratuit".

He wants Rs. 100/-. It is a small price.

Shri C. D. Deshmukh: He is talking French and is still in Paris.

Pandit Thakur Das Bhargava: He wants to see you sent to Paris.

Shri Tek Chand: You will be pleased to notice, Sir, that the powers of the Appellate tribunal are very restricted. These powers relate to pure matters of law. That is to say, the High Court or the Supreme Court as the case may be, is conferred an advisory power. If the Board has any doubt, it can seek the advice of the Supreme Court on a question of law. The other matter is, if the Board is obdurate and the litigant wants to seek the assistance of the High Court, in some cases, the High Court is given power to call upon the Board to frame a question of law. My submission is that the powers of the High Court should be wider than they actually are, under clause 62. The difficulty will be that although glaring instances of injustice may be there, nevertheless the High Court will be impotent to rectify those mistakes.

Mr. Deputy-Speaker: Has the hon. Member any amendment to that effect?

Shri Tek Chand: No. I am supporting the amendment which is to the effect that in matters of valuation as contained in article 61(5) power should be conferred on the High Court. The powers of the High Court should be widened rather than narrowed to the point to which it has already been narrowed down by article 61.

Mr. Deputy-Speaker: Is it Shri Tulsidas's amendment?

Shri Tek Chand: Yes. My reasons are these. Theoretical questions of law will be few and far between and occasions for elucidation of legal difficulties will be very rare. But, the real occasions will be when there is conflict as to valuation and the matter involved may run into very large figures. It is there that substantial relief is necessary. It should be open to either party to benefit by the superior wisdom of the judicial tribunals of a high order. Therefore, it will not be desirable to narrow down the jurisdiction of the High Courts and Supreme Court to a very small ambit.

Shri C. D. Deshmukh: Sir, I am unable to accept amendment No. 190, because valuation is a question of fact, and I cannot conceive what kind of question of law can arise. It is in the nature of arbitration and the word is actually used in clause 61 (4), and therefore, there can be no kind of appeal except perhaps *mala fides* which can always be urged in a Court of Law. Therefore, I am unable to accept amendment No. 190.

I accept amendment No. 194 which reduces the fees from Rs. 500 to Rs. 100. I am unable to accept the lengthening of the period contemplated in amendment Nos. 196 and 337 in spite of the fact that there is a period prescribed in the Income-tax Act. Our pattern, if there is a complaint, is a different pattern rather than longer period. I accept amendments Nos. 199 and 340 which appear to me to be reasonable.

Pandit Thakur Das Bhargava: With your permission, may I put a question to the Finance Minister? He has just said that the order of the arbitrator under Section 61(4) will not be final in the sense that it is open to the party to go to a Court of Law and establish *mala fides* there. Supposing a fraud is committed, where is the forum on which this question can be agitated? I understand that usually awards can also be questioned on the basis of fraud, but in a case of this nature there is no Court where this question can be agitated, or the final order of the arbitrator questioned. He has just said that a reference may be made to a Court. Where is the provision?

Shri C. D. Deshmukh: I cannot commit myself to this. It seems to me that in the ordinary process of valuation there should be no appeal. I only said that it is possible in the case *mala fides* there may be some remedy available, but I am not lawyer enough to point out what that remedy is.

Pandit Thakur Das Bhargava: On the contrary, I welcome the statement of the Finance Minister, because it is a very salutary statement. I wish that he will kindly apply his mind to the facts of the case. In a case of this nature when there is a question of *mala fide* or partiality or something like that in an ordinary award, it is always open to any person who is aggrieved of that order to go to a Court of Law and set it right, whereas in this case, under Section 60, there is absolutely no provision. I would beg of him to kindly consider the question objectively and find out some method by which the person aggrieved may be given some opportunity to prove the *mala fides* of the arbitrator as it is done in other cases. This is my humble submission.

Some Hon. Members: It is past 10-45.

Mr. Deputy-Speaker: The time for the other business will be extended by whatever extra time is taken now by this Bill. We are at the fag end of clause 62. Let me put it to the House lest we should forget the discussions that have taken place.

The question is:

In page 29, lines 28 and 29, *for* "five hundred rupees" *substitute* "one hundred rupees".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 30, *after* line 28, *insert*:

"Provided that in case the case is referred to the Supreme Court under sub-section (4) of this section the party shall pay,

if required to do so, the cost only as if reference has been made to a High Court and not the Supreme Court."

The motion was adopted.

Mr. Deputy-Speaker: The amendment of Shri N. C. Chatterjee is now barred.

The question is:

In page 29, line 40, *for*, "three months" *substitute* "six months".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 29, lines 26 and 27, *after* "sub-section (3) of section 61" *insert* "or sub-section (4) of section 61".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 29, line 27, *after* "the person accountable" *insert* "or the Controller".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 62, as amended, stand part of the Bill."

The motion was adopted.

Clause 62, as amended, was added to the Bill.

Mr. Deputy-Speaker: The House will now take up private Members' legislative business. The time for this will be extended by five minutes more.

Shri Gadgil: What about sitting in the afternoon?

Mr. Deputy-Speaker: The House will sit in the afternoon today.

Some Hon. Members: No, no.

Shri Nambiar (Mayuram): We are taking up non-official business now?

Mr. Deputy-Speaker: Yes. It is Friday. Hon. Members are forgetting it is Friday.

Shri Nambiar: Yes, Sir. We are waiting for the Dowry Restraint Bill.

Some Hon. Members: No sitting in the afternoon.

Mr. Deputy-Speaker: Order, order. Sometimes we reduce our age and become fidgety.

DOWRY RESTRAINT BILL—*Contd.*

Mr. Deputy-Speaker: The House will now take up Private Members' Legislative Business. Further consideration of the following motion moved by Shrimati Uma Nehru on the 28th August, 1953:

> "That the Bill to restrain the custom of taking or giving of dowry in marriages, be taken into consideration."

Shrimati Uma Nehru may continue her speech.

श्रीमती उमा नेहरू (जिला सीतापुर व जिला खेरी—पश्चिम) : पेश्तर इसके कि मैं दहेज का जिक्र करूं मैं चाहती हूं कि मैं हाउस के हानरेबिल मेम्बर्स को बता दूं कि मैं स्त्रीधन व मेहर के खिलाफ नहीं हूं । आप जितना चाहें अपनी बेटियों को दे सकते हैं । मैं तो केवल उस तकलीफदेह प्रथा के विरुद्ध हूं जो शादी के पहले लड़के वाले अपने बेटों का मोलतोल मारकेट रेट में करते हैं । जितने अमीर और ऊंचे दरजे की मुलाजिमत पर उनके बेटे होते हैं उतनी ही उनकी कीमत समाज में बढ़ जाती है । ऐसे कंट्रेक्टस शादी के पहले होते हैं और यह भी देखा है कि शादी पर इतना धन दो और बाद में इतना दो इसके तकाजे भी रात दिन होते रहते हैं । ये हजारों रुपये जो लड़के वाले लेते हैं वह लड़की को नहीं मिलते ह । गर्जेकि हम खुल्लमखुल्ला लड़की के वर को खरीदते हैं और खरीदने के बाद भी हमें सुख नहीं मिलता । मैं चाहती हूं कि हमारी सरकार इस दुःखदायी प्रथा को दूर करे और जो इस तरह से रुपया ले वह गुनहगार समझा जावे और सख्त सजा का मुजरिम होवे । मुझे पूरा भरोसा है कि सरकार समाज की इस कुरीति को समझती है और इस बिल को बखूशी मंजूर करेगी ।

हम से कहा जाता है कि भारतीय समाज में स्त्री की बहुत इज्जत होती है और हमें समाज पूजणीय, माता, देवियों व गृहलक्ष्मी के नाम से पुकारता भी है । तो क्या वजह है कि जब हम पूजनीय हैं हमारी यह दुःखभरी दशा हो ? कहीं मातायें या देवियां या गृह लक्ष्मियां बेची भी जाती हैं ? जब तक समाज में परिवर्तन न होगा और स्त्री और पुरुष दोनों एक समान इन्सान न समझे जावेंगे समाज जिन्दा नहीं रह सकता है । समाज की यह दशा देखकर के हमने बहुत परिश्रम के बाद हिन्दू कोड बिल को इस संसद के सामने रखा था । ताकि स्त्री के दुःख भरे बन्धनों को तोड़ दें और स्त्री को समाज में फिर से आजाद व पूजनीय बनावें । हमारे लिए समाज में जहेज के नाम की प्रथा बहुत दुःखदायी है । इस प्रथा के कारण न मालूम कितनी हमारी प्यारी बेटियों ने खुदकशी की है खासतौर से हमारी बंगाल की बेटियों ने ।

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

अफसोस तो यह है कि जब से हम जन्म लेती हैं हम अपने माता पिता के लिए वबाले जान हो जाती हैं । हमारी शादी क्या होती है हमारे माता पिता की बरबादी

[श्रीमती उमा नेहरू]

होती है। अगर हम किसी अच्छे धनी घर में ब्याही जावें तो हमारे माता पिता को क़र्ज़ ले कर लड़के के माता पिता को धन से भरना पड़ता है। जितना ज्यादा लड़का पढ़ा लिखा हो, या आई० सी० ऐस० या आई० पी० की नौकरी में हो तो उसकी क़ीमत हज़ारों की हो जाती है। बेचारे ग़रीब या साधारण हैसियत वाले, चाहे उन की लड़की कितनी भी क़ाबिल व सुन्दर हो, उस रईस के घर की तरफ़ या उस आई० सी० ऐस० या आई० पी० की सरविस वालों की तरफ़ ख्याल भी नहीं करते, क्योंकि वह इतने दौलतमन्दों को कहां से खरीद सकते हैं। वह बेचारे कहां से धन लावें। आई० सी० ऐस० लड़कों को तो समझो कि सुरखाब के पर लगे हुए होते हैं, जिन की क़ीमत हज़ारों की हो जाती है। धन के साथ साथ मोटर भी मांगी जाती है। कहीं कहीं तो आई० सी० एस० होने का पूरा खर्चा मांगा जाता है। ग़रज़ यह कि बेचारे लड़की वाले परेशान ही रहते हैं। हमारे सामने ऐसी भी मिसालें हैं, जहां लड़की वालों ने पूरा आई० सी० एस० तालीम का खर्चा दिया और उस का फल यह मिला कि दामाद साहब ने सब कुछ ले लिवा कर फिर से अपनी पसन्द की शादी रचाई। अक्सर यह भी देखा कि जितना भी लड़कियों को दो, उन के सुसराल वालों की डिमांड कभी पूरी हो ही नहीं सकती है।

सब से ज्यादा तकलीफदेह बात तो हमें यह मालूम होती है जब कि हम लड़कियों का कन्यादान करते हैं। यह दान देख कर बहुत दुःख होता है। इस दान म स्त्री का पतन दिखाई देता है। गोदान से भी गिरा हुआ यह दान है। इस दान के बाद हमें प्रायश्चित्त करना पड़ता है। गोदान के बाद हमें प्रायश्चित की कोई ज़रूरत नहीं होती है। हम से कहा जाता है कि कन्यादान सब दानों से उत्तम दान होता है, और चूंकि हम इन्सान को कन्यादान करते हैं, हमें अपने इस पाप का प्रायश्चित करना ज़रूरी होता है।

यह समाज की जितनी तकलीफदे रीतियां हैं, सब मिट जातीं, अगर हमने हिन्दू कोड बिल पर ज़रा भी विचार किया होता, और स्त्री को समाज में फिर से पूज्यनीय की पदवी पर लाते। तभी हमें हक़ था कि उस पूज्यनीय माता या गृहपत्नी के नाम से हम उसे पुकारते। आज स्त्री की दशा यह है कि वह माता या देवी भले ही हो समाज में उसकी कोई हैसियत नहीं। माता होने के साथ साथ उसे अपने पति की जायदाद पर कोई भी हक़ नहीं है। अपने बच्चों का वह अपने त्याग और प्यार से पालन पोषण करती है, अपने खून से उन्हें सींचती है, जिम्मेदारी सारी बच्चों की वह लेती है। लेकिन अफसोस तो यह है कि इस सब जिम्मेदारी लेने के बाद आज वही बच्चे उलट कर क़ानून बनाने के लिये बैठ गये हैं, जहां इस पूज्यनीय माता को हर जिम्मेदारी से वह बच्चे महरूम रखते हैं।

11 A.M.

आखिर में मुझे यह कहना है, मैं यह कह देना मुनासिब समझती हूं कि मुझे सरकार में पूरा भरोसा है कि वह इस बिल को मंजूर करेगी और सरक्युलेशन के लिये ख्याल नहीं करेगी। सरक्यूलेशन के माने होते हैं, बात को टालना। इस बिल में कोई ऐसी बात नहीं है जो किसी को मंजूर न हो। अगर इस बिल में कोई भी क़ानूनी ग़लतियां या कमियां हों, तो वह यहीं पर सही की जा सकती हैं।

आज दो तीन साल के बाद हमें यह दिन नसीब हुआ है और हाउस के लिये, देश के लिये और समाज के लिये यह मुबारिक दिन है। आशा है कि हाउस इस बिल को दुआ व आशीर्वाद दे कर मंजूर करेगा।

अन्त में मुझे यह भी कहना है कि मैं चाहती यह हूं कि आज इस बिल के ऊपर मेरी जितनी भी यहां बहनें हैं, और विशेषकर मेरे भाई हैं, उन को सब को समय मिलना चाहिये। यह बिल कोई राष्ट्रीय बिल नहीं है, यह बिल सामाजिक है। हर एक का हृदय इस वक्त दुःख से भरा हुआ है, चाहे वह पिता हो, चाहे वह माता हो। तो मैं चाहती हूं कि वे सब अच्छी तरह से इस बिल पर रोशनी डालें, ताकि इस बिल को हम कामयाबी से पास कर लें।

Mr. Chairman: Motion moved:

> "That the Bill to restrain the custom of taking or giving of dowry in marriages, be taken into consideration."

Now, there are several amendments to this motion. Prof. Diwan Chand Sharma.

Shri M. S. Gurupadaswamy (Mysore): Sir, there is an amendment...

Prof. D. C. Sharma (Hoshiarpur): For how many minutes shall I speak, Sir?

Mr. Chairman: The hon. Member may resume his seat. Shri Gurupadaswamy is raising a point of order.

Shri M. S. Gurupadaswamy: There is an amendment by me for circulation of the Bill for eliciting public opinion.

Mr. Chairman: I do not understand what is the point of order involved. There are two amendments to the same effect. I have called the hon. Member in whose name it stands first.

Shri M. S. Gurupadaswamy: I never raised a point of order, Sir. I am just referring to my amendment.

Mr. Chairman: I know it. I have read the Order Paper. The only point of the hon. Member is that I should have called upon him and not the other gentleman in whose name it stands first. Now, Prof. Sharma.

Prof. D. C. Sharma: I beg to move:

> "That the Bill be circulated for the purpose of eliciting opinion thereon by the end of February, 1954."

Sir, I thank you very much for giving me a chance to speak on this very important....

Mr. Chairman: Order, order. I find that whenever I call upon an hon. Member to speak, he starts by saying that he feels grateful to me. I feel very much embarrassed when I hear a thing like that. It is every Member's right to speak and the Chair is only to select the person. That is all. I do not show any favour whenever I call upon a Member to speak. It is my duty to select and call upon Members to speak. That is why I say that I feel embarrassed when he says that he is grateful to me. They should not be grateful to me at all. They are here to speak in their own right and the Chair only calls upon the Member who happens to catch the eye of the Chair. So I will request hon. Members not to put me in an embarrassment by saying that they feel grateful to me. (*Interruption*). I would further plead that Members who do not get an opportunity to speak should not get angry or dissatisfied for not having been called upon to speak.

Shri Bhagwat Jha (Purnea *cum* Santal Parganas): Your ruling is right, Sir. Otherwise, the Member who thanks you will carry weight and will have the chance.

Prof. D. C. Sharma: I thought, Sir, that courtesy was part of the equipment of a speaker and that was why

[Prof. D. C. Sharma]

I made that remark. Anyhow, Sir, I will proceed.

When I was a student in the Presidency College, Calcutta, and was living in the Eden Hindu Hostel, Calcutta, every week I used to have two or three shabby-looking persons coming to me with a petition in their hands and asking me for some kind of charity. Generally these petitions were written in Bengali and, therefore, I was not able to understand them. But my fellow-students explained to me that this gentleman was in need of money because he wanted to marry off his daughter. At that time I thought that this disease was peculiar to a particular State in India. But, now, Sir, I find that this disease has become rampant all over India. There is no part where you cannot find this disease of asking for dowry on the part of the parents of the bridegroom, on the part of the relations of the bridegroom. I think, Sir, this is a very deep-seated evil and the remedy which my sister, Shrimati Uma Nehru, has put forward is a very very ineffective remedy. I wonder if this remedy can cure this drastic disease; drastic diseases should have drastic remedies. We had, for instance, Sir, the Sarda Act. What was the purpose of that Act? It was that the age of consent should be raised. What has happened to the Sarda Act? It is now a dead letter and I think it is fit for research at the hands of some students of social history. I do not think it is very much operative in any part of the country very few cases are brought before the courts where the provisions of the Sarda Act are contravened. My fear is this. If we take up this Bill in this manner and say we are going to ask for the restraint of dowry, it would have the same fate. It would not prove to be that kind of remedy which is needed to root out this disease. What is this remedy?

When I look at the newspapers I find that my sisters, my daughters and my mothers have attained all kinds of equality in this world. The other day I saw a picture of a young lady, a daughter of mine, and I found that she has become an Assistant Commissioner. Here is evidence of sex equality in matters of employment. Another day I picked up a paper and saw a lady and a gentleman playing cricket. Here is an instance of equality so far as sports is concerned. Every day I find, Sir, that there are instances of sex equality all over the country.

Shri Algu Rai Shastri (Azamgarh Distt.—East *cum* Ballia Distt.—West): Even here in this House, Sir.

Prof. D. C. Sharma: I know, a lady magistrate here administers justice as well as anybody else. So, there is what you may call economic equality. There are all kinds of equality operative in India, but, in spite of that, I should say that I do not find any instance of what I may call social equality so far as the relations of man and woman are concerned. I will think that the age of social equality has come only when a man does not say that he would marry a particular girl only if he is given some kind of dowry.

I met the other day a gentleman—I do not want to give his name—and he said, 'My son is worth Rs. 50,000 to me'. I said, 'Yes; he is worth Rs. 50,000 because he has done so well at the examination and he is going to get into one of those coveted services'. He said, 'No, no, I am not talking in that way; there are a number of people who are after me and they want that I should marry off my son to some girl who will bring a dowry of so many thousand rupees.' So, what I mean to say is that while we are advancing along lines of progress on all sectors of life, so far as social equality is concerned, women—my sisters here will excuse me for saying so—are at a great disadvantage. They do not have the same kind of equality which they ought

to have so far as marriage is concerned. If they had, no father would have the cheek to say, 'I can marry off my son to your daughter only if you give this much of dowry' What I mean to say is that in India we have still that inequality. This inequality is to be found in our marriage relationship. As long as marriage relationship is not on an equalitarian basis, on a basis of reciprocity, I think the talk of social revolution, silent revolution, bloodless revolution, loses some of its value. We want a kind of social revolution in India where our daughters can stand on their own legs and where they can say to young men who want some dowry, 'well this is not the right thing to do'. I say the only remedy for this is that we should advocate adult marriages.

I am a student of literature, Sir, and today I want to refer to Sanskrit literature, to sanskrit drama, the dramas of Kalidas and the dramas of Bhavabhuti, those great writers of India. What do you find there? Even though India was not at that time very great, I find that in those days....

Shri Algu Rai Shastri: It was greater than today.

Prof. D. C. Sharma: I said very great. Other hon. Members do not understand very great; what can I do? India was not at that time very great, but still I see, Sir....

Shri Algu Rai Shastri: It was very very great, Sir.

Prof. D. C. Sharma: Sir, we find that those dramas give such fine and noble portraits of our womanhood. What is the secret of that? The secret of that was that marriage then was not of the kind that we have now, the negotiated type of marriage between the relations of the boy and the relations of the girl. This kind of negotiated marriage was at a discount. Therefore, if we want to bring about some kind of social revolution, we should put an end to all the evils that are inherent is this system of negotiated marriages which prevail especially with such intensity in some of our far eastern countries. At the same time, if people could be made moral by legislation, I think, we Indians and perhaps the inhabitants of other countries would have become angels by this time. Look at the number of laws that we are passing in every country in the world today. Look at the amount of legislation which piling up. I might add, Sir, that no country could ever become moral by mere Acts of Legislature. I do not decry legislation, but I can assure you, Sir, that legislation is a very ineffective method. I say that this kind of legislation should be preceded by education and also followed by education. Education should come first and legislation should come afterwards; or, if legislation should come first, education should follow it. I think the two should go together. Therefore, Sir, I say that the Bill should be circulated for public opinion.

It is there, I think, that we have to create the right kind of climate, the right kind of atmosphere, the right kind of surroundings for the implementation of this Bill. I would, therefore, say that while I agree with my learned sister Mrs. Uma Nehru, who says that this Bill should be passed at once, I would request her to explore this avenue that before this Bill is passed we should stump this country with the ideas which are inherent in this Bill and after this is done it will be possible for us to pass this legislation.

Sir, my learned sister said that *Dan* is very good and there are so many kinds of *Dan*. Now I am not a person who is well versed in the Shastras and I do not want to say anything which has anything to do with the Shastras because I may get into trouble on account of that; we should not think in terms of *Dan* which comes to our daughters.

श्रीमती उमा नेहरु : मैं आप को समझा दूं । मैं ने यह नहीं कहा । मैं ने

[श्रीमती उमा नेहरू]

यह कहा था कि दानों में जो दान समाज में सब से उत्तम माना जाता है वह कन्या दान होता है ।

श्री अलगू राय शास्त्री : यह सही बात है ।

श्रीमती उमा नेहरू: यह इतना उत्तम दान है कि अगर अपनी लड़की नहीं होती है तो हम किसी और की लड़की का दान करते हों, क्योंकि हम को कन्या दान करना जरूरी है । लेकिन इतना उत्तम दान होते हुए भी इस दान के बाद भी हमें प्रायश्चित करना पड़ता है क्योंकि इन्सान का दान नहीं होता है । गायों का जो लोग दान करते हैं उन को बाद में प्रायश्चित नहीं करना पड़ता है, लेकिन जो कन्या दान करता है उस को तो प्रायश्चित करना ही पड़ता है । मुझे बहुत अफसोस होता है कि जब भी कोई ऐसी बात कही जाती है तो लोग कहते हैं कि लिखा कहां है । लेकिन आप में से बहुत से लोगों ने शादियां की होंगी और वह जानते होंगे कि हमें प्रायश्चित करना पड़ता है कन्या दान देने के बाद ।

Prof. D. C. Sharma: I am glad to have this explanation from my learned sister. What I mean to say is that our laws should be so changed that what we give to our daughters should not be given as a matter of gift. It should be given to them as their own right. They should have as much right of inheritance to the property of the parents as the sons have.

Shri K. K. Basu (Diamond Harbour): Ask for Hindu Code Bill.

Prof. D. C. Sharma: I think there are certain religions and certain countries where this is done in that way. I, therefore, think that the idea of *dan* which was very good at one time is not being rightly understood today and is not being rightly practised today. I would, therefore suggest that we should so change our society that our daughters have as much share in our property as the sons have. We have removed so many disabilities under which our sisters have been living. We have taken away some of their economic and other disabilities. This social disability must also be removed. This disability may only be removed when our sisters and daughters think that they are not to be given away in that sense.

Mr. Chairman: Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the end of February, 1954."

श्री एस० एन० दास (दरभंगा मध्य): मैं अपना संशोधन इस प्रकार उपस्थित करता हूं ;

"That the Bill be referred to a Select Committee consisting of Shrimati Uma Nehru, Shrimati Jayashri Raiji, Shrimati Renu Chakravartty, Shrimati Sushama Sen, Pandit Thakur Das Bhargava, Shri Raghunath Singh, Shri Hari Vishnu Pataskar, Prof. D. C. Sharma, Shri N. Somana, Shri Debeswar Sarmah, Shri Ramraj Jajware, Shri Jhulan Sinha, Pandit Lingaraj Mishra, Shri K. S. Raghavachari, Shrimati Anasuyabai Kale, Shri Raghubir Sahai, Shri Radha Raman, Dr. Mono Mohon Das, Dr. Syed Mahmud, Shri Upendranath Barman, Shri Amjad Ali, Shri Fulsinhji B. Dabhi, Shrimati Ammu Swaminadhan, and the Mover, with instructions to report by the end of the first week of the next session."

Shri R. K. Chaudhury (Gauhati): May I ask the hon. Member to include Shri B. Das who is the father of the House? He may be able to give better opinion and he is agreeable. You don't accept?

श्री एस० एन० दास : I will consider it in the end.

श्रीमती उमा नेहरु ने इस संसद् के सामने एक बहुत ही महत्वपूर्ण समाज सुधार का विधेयक पेश किया है। मैं इस के लिये उन्हें बधाई देता हूं।

जो प्रस्ताव अभी संसद् के सामने पेश है उस के महत्व के सम्बन्ध में मेरा अपना ख्याल है कि किसी सदस्य को मतभेद नहीं हो सकता है। हिन्दुस्तान में ही नहीं, दूसरे मुल्कों में जहां भी वैवाहिक सम्बन्ध का नियम है, इतिहास से पता चलता है कि विवाह के बाद अपनी कन्याओं को उपहार देना और इस प्रकार का प्रबन्ध कर देना कि जिस से विवाह के बाद फौरन कन्या अच्छी तरह से अपने जीवन को व्यतीत करे, यह प्रथा प्रचलित थी। वर पक्ष के लोग भी और कन्या पक्ष के लोग भी दम्पति को इस तरह की सहायता दिया करते थे। हमारे यहां जैसा कि मेरा अन्दाज है, जब गुरुकुल से अपना विद्याध्ययन समाप्त करके कोई पुरुष समाज में प्रवेश करना चाहता था, जीवन संग्राम में आना चाहता था, उस समय उस के पास किसी भी प्रकार की पूंजी, किसी भी प्रकार के परिवार को चलाने के सामान का अभाव हुआ करता था, और ब्रह्मचर्यवस्था समाप्त करने के बाद जब वह सामाजिक जीवन में प्रवेश करता था तब उस के लिये आवश्यकता होती थी कि उस को एक समाज के परिवार के लिये, एक गृहस्थ की व्यवस्था के वास्ते, जितनी चीजों की आवश्यकता हो वे चीजें उस को दी जायें। मेरा यह भी ख्याल है कि प्राचीन काल में पैतृक सम्पत्ति में कोई खास अधिकार कन्याओं को नहीं होता था कानून के जरिये से। इसी लिये माता और पिता का कर्त्तव्य होता था कि जब वह अपनी कन्या का किसी वर के साथ विवाह करें और वर और कन्या जीवन में प्रवेश करें उस समय उन के पास ऐसी पूंजी हो जिस को ले कर वह अपने जीवन को अच्छी तरह से चला सकें इस लिये वह कन्या को समुचित सामान, द्रव्य, रुपया और गृहस्थ के लिए जितने सामान की आवश्यकता हो वह दें। सभापति महोदय, यदि आप कन्या और वर को दिये गये सामान का निरीक्षण करें तो पता चलेगा कि उस सामान में गृहस्थी की जितनी आवश्यक चीजें हैं उन का ही उस में समावेश होता है। जिस समय में कन्या को उपहार देने का विधान था विभिन्न रूप में, चाहे वह नकद हो, चाहे गहने के रूप में हो, चाहे कपड़े के रूप में हो चाहे किसी सामान के रूप में हो, उस का मतलब यह होता था कि ब्रह्मचारी वैवाहिक जीवन आरम्भ करता था उस के जीवन के लिए जितनी चीजों की आवश्यकता समझी जाती थी वह चीजें उस को दी जायें।

इससे शुरुआत होती है हमारे स्त्रीधन की। मेरा ख्याल है कि जिस समय समाज में इस तरह कि व्यवस्था चली थी तो उसमें किसी तरह की कोई बुराई नहीं थी। लेकिन जैसे जैसे समाज आगे बढ़ता गया, जैसे जैसे समय बीतता गया वैसे वैसे इसमें परिवर्तन होते गये और भावना में भी परिवर्तन होते गये और आज यह मौका आया कि कन्या के लिए वर खरीदना पड़ता है। एक समय हमारे देश में ऐसा था कि कन्या को खरीदने के लिए वर को कुछ पैसा देना पड़ता था। अभी भी जहां तहां समाज में यह प्रथा है लेकिन इसको अब नीची नजर से देखा जाता है। जो कन्या को बेचते हैं या कन्या को वर को देने के लिए पैसा लेते हैं आज कोई समाज ऐसा नहीं है जिसमें ऐसे आदमियों को नीची नजर से न देखा जाता हो। यह हमारे देश की गरीबी

[श्री एस० एन० दास]

के कारण हैं कि लोग अपनी बेटी को भी बेचकर अपना जीवन निर्वाह करना चाहते हैं। यह किसी भी समाज के लिए कलंक की बात है कि लोग अपने जीवन निर्वाह के लिए अपनी बेटियों को बेचें। यह बात किसी भी समाज के लिए कलंक की बात है। पर मैं उन लोगों को इसके लिए दोष नहीं देता क्योंकि आज समाज में यह दशा है कि जो मेहनत करना चाहते हैं उनको काम नहीं मिलता और उनको अपने जीवन निर्वाह के लिए अपनी कन्याओं को बेचना पड़ता है। इसका दोष तो समाज को है।

एक माननीय सदस्य : इसके लिए आप सरकार को भी दोष दे सकते हैं।

श्री एस० एन० दास : समाज के माने सरकार के हैं। आज हमारे सामने सवाल यह है कि जैसे जैसे हमारे देश में शिक्षा बढ़ती जाती है और आर्थिक व्यवस्था आगे बढ़ती जाती है, और जैसे जैसे शिक्षा प्राप्त करने का खर्च बढ़ता जाता है, वैसे वैसे हमारे समाज में यह देखने में आता है कि जो ऊंची आकांक्षा रखने वाले नवयुवक हैं, और जिनके पास साधन नहीं हैं, और जो चाहते हैं कि हमको अच्छे से अच्छा पद मिले और समाज में ऊंचे से ऊंचा स्थान मिले, वह चाहते हैं कि हम अपनी शिक्षा का और अपने परिवार के उच्चत्व का लाभ उठाकर ऐसी जगह विवाह सम्बन्ध करें जहां हमको बहुत पैसा मिले और हम उस पैसे से बड़ी से बड़ी शिक्षा प्राप्त करें, इंगलैंड जायं, अमरीका जायं जिससे सरकारी नौकरी में हमारा प्रवेश जल्दी से जल्दी हो जाय। मैं समझता हूं कि हम व्यवस्थापक जो कि यहां पर बैठे हुए हैं हमारी बहुत बड़ी जिम्मेदारी है। हमें सोचना चाहिए कि क्यों हमारे देश के पढ़े लिखे और क्रान्तिकारी नवयुवक इसकी ओर झुक रहे हैं। क्यों वह अपनी शक्ति पर भरोसा नहीं करते जिससे कि वह कठिन काम करके ऊंची से ऊंची शिक्षा प्राप्त कर सकें। इसलिए इस बिल पर विचार करते हुए हमारा कर्तव्य है कि हम इस बात को सोचें कि क्या कारण है कि हमारे समाज में नवयुवकों के दिल में यह प्रश्न पैदा होता है कि हम कन्या वाले से अधिक से अधिक रुपया ले कर अपनी शिक्षा और दूसरी चीजों की व्यवस्था कर सकें।

मैं इस सम्बन्ध में ज्यादा समय नहीं लेना चाहता। इसलिए कि बहुत से दूसरे सदस्य और हमारी बहनें इस सम्बन्ध में अपने विचार प्रकट करना चाहती हैं? मेरा ख्याल है कि इस बिल के सिद्धान्त से इस संसद् के किसी भी सदस्य को विरोध नहीं होगा और मेरा ख्याल है कि हमारे माननीय मंत्री जी, जो कि सरकार के प्रतिनिधि के रूप में ह, वह भी शायद इस बिल के खिलाफ न होंगे, परन्तु इस कानून को बनाने के पहले हमें विचार कर लेना चाहिए क्योंकि इस सम्बन्ध में हमारी राज्य सरकारें भी कानून बना सकती हैं और उनको भी इस सम्बन्ध में कानून बनाने का अधिकार है, और जहां तक मेरा ख्याल है कुछ राज्यों में इसके सम्बन्ध में जहां तहां कुछ कानून बनाये भी गये हैं। इसलिए आवश्यकता इस बात की है कि हम इस सम्बन्ध में पूरी गहराई के साथ विचार करें और विचार करने के बाद यह देखें कि किस रूप में इसको लाया जाय कि समाज पर इसका अच्छा असर पड़े। मैं यह कहे बिना नहीं रह सकता कि मैं अपने दोस्त प्रोफसर दीवान चन्द शर्मा जी से सहमत हूं कि कोई कानून बनाने मात्र से यह बुराई दूर नहीं हो सकती। इसको सफल बनाने के लिए

हमें समाज की आत्मा को जगाना पड़ेगा। बाज बावजूद इस बात के कि समाज में कोई भी शिक्षित व्यक्ति इसकी प्रशंसा नहीं करता है, फिर भी यह एक आग की तरह समाज के एक छोर से दूसरे छोर तक फैल रही है। किसी लड़की के पिता से आप पूछें कि तिलक या दहेज के प्रति उसके क्या विचार हैं, लेकिन वही व्यक्ति जब अपने लड़के का विवाह करने आता है तो यह भूल जाता है और उस समय ज्यादा से ज्यादा मोल तोल करने में और ज्यादा से ज्यादा रकम लेने में नहीं हिचकिचाता।

सभापति महोदय, आपका ध्यान इस बात पर गया होगा कि हमारे देश में बहुत सी सामाजिक संस्थायें हैं जो बहुत दिनों से सामाजिक बुराइयों को दूर करने में प्रयत्नशील हैं। जितनी जातीय संस्थायें हैं, जैसे ब्राह्मण सभा, कायस्थ सभा, भूमिहार सभा या दूसरी जातीय सभायें हैं वे सब इस बुराई को नापसन्द करती हैं। कोई भी ऐसा सामाजिक सम्मेलन नहीं होता जिसमें कि दहेज की प्रथा के खिलाफ प्रस्ताव पास न होता हो लेकिन यह भी दुःख के साथ कहना पड़ता है कि उस सम्मेलन के जो सभापति होते हैं वे ही उस प्रस्ताव का पूरा उल्लंघन करते हैं। मेरे कहने का मतलब यह है कि बावजूद इस बात के कि इस दहेज की प्रथा का समाज में सब तरह से विरोध है और इसके खिलाफ तमाम लोगों का प्रयत्न है फिर भी वह समाज में आज दिन प्रति दिन बढ़ती चली जा रही है। और यह बुराई आज यहां तक बढ़ गयी है कि इससे ऊबकर हमारी कुछ बहनें, यह देखकर कि उनके विवाह के लिए उनके माता पिता को कितनी कठिनाईयां उठानी पड़ती हैं और कितने झंझटों में पड़ना पड़ता है, आत्महत्या कर लिया करती हैं।

सभापति महोदय, आपको यह भी मालूम होगा कि हमारे समाज में ऐसे बहुत से अंग हैं जहां पुत्री का जन्म खुशी से नहीं मनाया जाता है। पुत्री के जन्म से लोगों को दुःख होता है।

श्री विभूती मिश्र (सारन व चम्पारन): अधिकतर दहेज वही लोग मांगते हैं जो कि कालिजों में पढ़ते हैं, आप सभाओं का नाम क्यों रखते हैं।

Mr. Chairman: The hon. Member has not been called upon to speak. He should not take advantage by standing up, and speak without being called upon to do so.

श्री एस० एम० दास: माननीय सदस्य ने शायद मेरा मतलब समझा नहीं। मेरा मतलब यह है कि जो हमारे समाज के नवयुवक हैं उनका तो उत्तरदायित्व है ही लेकिन जिस समाज और माता पिता ने उनको जन्म दिया है उनका भी कम दोष नहीं है। इस दहेज की प्रथा को लेकर हमारे देश में बहुत से ऐसे काम होते हैं जो समाज के लिए शोभनीय नहीं हैं। इसलिए मैं इस बिल का पूरा समर्थन करता हूं और उम्मीद करता हूं कि जब यह प्रवर समिति के पास से वापस आवेगा तो हम इसको सहर्ष पास करेंगे।

Shri Nandlal Sharma (Sikar): Has the consent of the Member been obtained?

Mr. Chairman: The hon. Member has taken the consent of the Members of the Select Committee. If any Member has not given it, he can indicate it here.

Amendment moved:

"That the Bill be referred to a Select Committee consisting of Shrimati Uma Nehru, Shrimati Jayashri Raiji, Shrimati Renu Chakravartty, Shrimati Sushama

[Mr. Chairman]

Sen, Pandit Thakur Das Bhargava, Shri Raghunath Singh, Shri Hari Vishnu Pataskar, Prof. D. C. Sharma, Shri N. Somana, Shri Debeswar Sarmah, Shri Ramraj Jajware, Shri Jhulan Sinha, Pandit Lingaraj Mishra, Shri K. S. Raghavachari, Shrimati Anasuyabai Kale; Shri Raghubir Sahai, Shri Radha Raman, Dr. Mono Mohon Das, Dr. Syed Mahmud, Shri Upendranath Barman, Shri Amjad Ali, Shri Fulsinhji B. Dabhi, Shrimati Ammu Swaminadhan, and the Mover, with instructions to report by the end of the first week of the next session."

श्रीमती सुभद्रा जोशी (करनाल) : अभी हमारे प्रोफेसर साहब ने कहा कि पबलिक ओपीनियन के लिए यह बिल भेज दिया जाय और उन्होंने ऐसा बतलाया कि अभी पबलिक में इस के खिलाफ एजूकेशन काफी नहीं हुई । मुझे पबलिक ओपीनियन के लिये भेजने के लिए कोई ऐतराज नहीं है, अगर यह हाउस क़ानून द्वारा तब तक तमाम शादियों को रोक दे, और इस के पहले कि मैं और बातें कहूं, सभापति महोदय, मुझ को इस हाउस से एक शिकायत करनी है । इस हाउस का आधा खर्चा हिन्दुस्तान की औरतें उठाती हैं, आधी वोटर स्त्रियां होती हैं । वोट ले कर के जब हाउस में नुमायन्दे आने होते हैं तो उन्हें औरतों के वोट लेने के लिये तो बहुत वक्त होता है, लेकिन जब यहां पर आते हैं और जब कोई ऐसे कानून की बात होती है, जिनका कि औरतों से खास ताल्लुक़ होता तो उन्हें वक्त नहीं मिलता है । चुनाव के बाद इतने सैशन्स हो चुके, लेकिन आज तक एक भी बिल इस क़िस्म का पास होने के लिये हाउस को वक्त नहीं मिला । जब कोई बिल आता है तो देर लगा कर, सिलैक्ट कमेटी, पबलिक ओपीनियन, इस तरह सब क़िस्म की बातें लगा कर इतनी देर कर दी जाती है कि वह बिल पास नहीं होता । मुझे वह दिन भी याद है जब कि इस हाउस में किसी वक्त हिन्दू कोड बिल के नाम से एक बिल पेश था । और इसी तरह लोगों ने हमारे हाउस के सदस्यों ने, उस को सिलैक्ट कमेटी और इस तरह की बातें ला कर देर लगा लगा कर ऐतराज किये और वह पास नहीं हो सका ।

आज इस बिल की ताईद करने के लिये मैं खड़ी हुई हूं तो मैं बड़ी शर्म के साथ कहती हूं कि मैं औरतों के लिये बराबर का हक़ मांगने के लिये नहीं खड़ी हुई हूं । बराबर का हक़ तो न मालूम हम कब मांगेंगी ? हम तो सिर्फ़ इतना चाहती हैं कि हमारे इस हाउस के सदस्य औरतों को कम से कम इन्सान मानने को तैयार हो जायं । हमारे समाज में आज जितना अपमान शादियों में होता है, चाहे उसके लिये आप शास्त्रों को कोट करें, चाहे धार्मिक पुस्तकों को कोट करें, परन्तु जिस क़िस्म की शादियां आज हिन्दुस्तान में होती हैं, उस में दहेज और इस तरह की और रस्मों के अलावा, दहेज में जितना अपमान, जितनी बेइज्जती स्त्री की होती है इतनी कभी कोई इन्सान किसी इन्सान के साथ नहीं कर सकता । आप लड़की को पढ़ाते हैं, लिखाते हैं, लड़की अच्छी है, गुणवान् है, पर उस की शादी नहीं हो सकती, उस के साथ दहेज चाहिये । लड़की की कोई क़द्र नहीं, उस के गुणों की क़द्र नहीं, उस की और चीजों की क़द्र नहीं । हर चीज के पीछे यह विचार होता है कि दहेज कितना है । आज मुझे मालूम है कि बहुत से लोग कहते हैं कि आज ऐसा कहां है, आज तो दहेज नहीं मांगा जाता है, पढ़े लिखे लोग नहीं मांगते हैं, दुनिया तरक्की पसन्द हो गयी है । लेकिन

सभापति महोदय, मैं कहना चाहती हूं कि दहेज तो बराबर मांगा जाता है, आज दहेज की क़िस्म बदल गयी है । आज शादी में तरह तरह के कपड़े नहीं मांगते हैं, तरह तरह की फालतू चीजें नहीं मांगते हैं, लेकिन रेडियो मांगते हैं, मोटरें मांगते हैं, विलायत जाने के लिये खर्चा मांगते हैं और इस तरह पचीसों किस्म की चीजें मांगते हैं । अगर और कुछ नहीं चाहते हैं तो कम से कम यही चाहते हैं कि नौकरी दिलवाने में मदद करवा दी जाय । इस किस्म से अगर समाज के आधे हिस्से पर कोई प्रतिबन्ध लगा दिया जाय तो उससे ज्यादा अन्याय कोई और नहीं हो सकता ।

इस के साथ ही साथ, सभापति महोदय, मैं कहना चाहती हूं कि आज अगर हम लोग इस क़िस्म की जो दहेज की प्रथा है उस को हटाते नहीं हैं, तो शादियों में बड़ी दिक्कतें होती हैं । आज हमारा समाज एक ऐसे वक्त से गुजर रहा है कि अब वह वक्त नहीं रहा कि जिस में स्त्री अपनी पोजीशन को समझती नहीं हो । उस में आज एक जागृति आ गयी है, कानशसनैस आ गयी है । आप ने स्त्री को शिक्षा दी है, लड़की को पढ़ाया है, हालांकि उस पढ़ाने की नीयत में मुझ को शक है । मैं इस चीज को समझती हूं कि लड़की को आज आप ने इस लिये नहीं पढ़ाया कि मुसीबत के वक्त वह अपने पैरों पर खड़ी हो सके या स्त्री जाति तरक्की कर सके । आज पढ़ाने में नीयत अच्छी नहीं है । आज हम लोग पढ़ाते इसलिये हैं कि लड़का आठवीं पास लड़की चाहता है । पढ़ाते इसलिये हैं कि लड़के की डिमांड दसवीं पास की है । डिमांड बी० ए० की हो गयी है तो बी० ए० करवा देते हैं । अगर रत्न और प्रभाकर से काम चल जाता है तो उतना ही पढ़वा देते हैं । ऐसा हो गया है, जैसे मारकेट में जिस चीज के लिये डिमांड हो उस डिमांड के मुताबिक़ ही मारकेट में चीज़ तैयार की जाती है और इस तरह यह लड़की का मोल तोल होता है । उस के बाद जब शादी होने लगती है तो बड़ी दिक्कत आती है । दहेज उस लड़की के साथ चाहिये और लड़की जागृत हो गयी है इसलिये लड़की अपने अपमान को महसूस करती है । लड़की अच्छी जगह शादी करना चाहती है लेकिन शादी नहीं हो सकती है । मां बाप भी मजबूर हैं, शादी होने में हजार रुकावटें दहेज की वजह से हैं । आज हमारे समाज में इस का क्या असर होता है ? आज मुझे मालूम है । मैं ने शास्त्र तो पढ़े नहीं हैं, संस्कृत भी नहीं जानती हूं, पर मुझे मालूम है कि कुछ कोट किया गया और इस बिल को रोकने के लिये हजारों शास्त्र और कोट कर दिये जायेंगे । लेकिन आज जब शादी का वक्त होता है और शादी नहीं होती है तो माता पिता अपनी आंख बन्द कर लेते हैं और लड़की किसी के साथ भी भाग कर शादी कर लेती है । उस में जागृति है, वह शादी अच्छी जगह करना चाहती है । मां बाप भी करना चाहते हैं, लेकिन शादी नहीं होती है तो लड़की किस्म किस्म से सजती है, क़िस्म क़िस्म के कपड़े पहनती है, मुंह रंगती है, मां बाप इस को सहन करते हैं और चाहते हैं कि लड़की अपने आप कहीं चली जाय और शादी कर ले । वह सब दहेज की वजह से मजबूर हैं । मुझे इस तरह के मां बाप से सहानुभूति है । पर यह समाज पर एक भारी कलंक है और यह समाज का इतना भारी गिरना उसी का नतीजा है ।

फिर बहुत सी ऐसी जगहें भी हैं कि जहां दहेज दे दिया जाता है । फिर भी

[श्रीमती सुभद्रा जोशी]

दुख है। दहेज इसलिये दे दिया जाता है कि दहेज देने के बाद हमारी लड़की सुखी हो जायगी। पर मैं ने देखा कि जिस घर से जितना दहेज मिला, वह लड़की उतनी ही दुखी और परेशान रहती है, क्योंकि पैसा लेने वाले की तृष्णा कभी शान्त नहीं होती। जब लड़की दहेज ले आती है तो सुसराल वाले समझते हैं कि जितनी बार यह घर में जायगी और आवेगी उतनी ही बार ज्यादा मिलेगा। जितना वह लाती है उतनी ही ज्यादा जरूरत मालूम होने लगती है और जब वह तृष्णा किसी किस्म से पूरी नहीं हो पाती है तो लड़की दुःख पाती है

आज आप कहते हैं कि पबलिक ओपीनियन इसके हक में नहीं है। न मालूम आप पबलिक ओपीनियन किस को समझते हैं? आज आप एक एक लड़की की हालत को देखिये, वह एक मूक आवाज है जिस को आज सदियों से जानवरों से बदतर ट्रीट किया गया है। आप कहते हैं ऐजूकेशन नहीं है, आप कहते हैं पबलिक ओपीनियन नहीं है। वह बेचारी परेशान है, बोल नहीं सकती है, जानती भी नहीं है, और जानती भी है तो उसकी आवाज नहीं है, और आवाज हो तो कैसे हो? मुझे आज हाउस में जब यह मालूम होता है कि वह इस बिल को सीरियसली नहीं लेना चाहते हैं तो लगता है कि यह लड़ाई कोई ऐसी वैसी बात नहीं है, बल्कि लेने वालों और देने वालों में लड़ाई है। ऐसा मालूम होता है कि हमारे यहां जब हाउस में सदस्य इस बिल पर बातचीत करते हैं तो न मालूम औरत से क्या मतलब समझते हैं। पर वह औरतें तो हमारी बेटियां हैं, हम शादी करते हैं उन की, वे हमारी बहनें हैं और हम उन की शादी करते हैं। इन तमाम दिक्कतों से हम गुजरते हैं। पर मालूम होता है कि जब हमारे भाई जो मुखालफ़त करते हैं तो शायद वह समझते हैं कि हमारे यहां सारे लड़के ही लड़के पैदा होने वाले हैं। हम सदा लेने वालों में हैं। मैं चाहती हूं कि इस बात पर थोड़ी रिसर्च की जाय और जब बिल का किस्सा खत्म हो जाय तो, सभापति महोदय, बोलने वालों की लिस्ट के बारे में देखा जाय कि मुखालफ़त करने वालों की लड़कियां कितनी हैं और लड़के कितने हैं और समर्थन करने वालों के लड़कियां कितनी हैं और लड़के कितने हैं, क्योंकि मुझे सचमुच में शक होता है कि आज सदियों के बाद हिन्दुस्तान में यह कहा जाय कि इस के लिये तो पबलिक जागृत नहीं है और दहेज के दोषों को नहीं जानते हैं, इसलिये उन को ऐंजूकेट किया जाय, उन को बतलाया जाय कि उस में क्या बुराइयां हैं, उस की बुराइयों को उन के सामने रखने का मौका दिया जाय, यह ऐसी बातें सुन कर मुझे सचमुच में नीयत पर शक होने लगता है। इसके लिये मैं माफी चाहती हूं।

हमारे यहां यह भी कहा गया, हमारे सदस्यों ने यह भी कहा कि कानून से यह बात रुकने वाली नहीं है। मैं इस चीज को कुछ हद तक मानती हूं। मैं तो यह भी मानती हूं और जैसे यहां पर मैं ने कभी कभी कहा भी है कि यहां हाउस में रोज कई चीजें आती हैं। रोज मैं सुनती हूं कि किसानों के साथ क्या होना चाहिये, मजदूरों के साथ क्या होना चाहिये, समाज का एक्सप्लाइटेशन कैसे रुकना चाहिये। लेकिन जो औरतों का एक्सप्लाइटेशन होता है, उसकी तरफ़ किसी की तवज्जह नहीं जाती। कुछ फी सदी संख्या मजदूरों की हिन्दुस्तान में होगी, कुछ फ़ी सदी हिन्दुस्तान में किसानों

की होगी, सब कुछ कुछ फी सदी ही हैं। पर यहां औरतों की जितनी तादाद भारी है और जितना शादियों से औरतों का ऐक्सपलाईटेशन हो रहा है और उस से जितना नुक़सान सोसाइटी पर पड़ता है, इस की तरफ़ किसी का ध्यान और किसी की तवज्जह नहीं है।

इसलिए मैं कहना चाहती हूं कि हमारे समाज में और चीज़ों के अलावा दहेज़ एक ऐसी चीज़ है जिसमें औरत को ख़रीदना और बेचना होता है और जिस समाज में यह होता हो, वह समाज कभी तरक्की नहीं कर सकता है और साथ ही मैं इस चीज़ को भी मानती हूं कि इस चीज़ के लिए अगर हम लोग किसी का मुंह ताकते रहें, कि कोई दूसरा हमारी मदद करने वाला आने वाला है, मैं इस चीज़ में विश्वास नहीं रखती। मेरा तो यह विश्वास है कि हमारे देश की लड़कियां और औरतें जब तक इस कुरीति के ख़िलाफ़ आवाज़ नहीं उठायेंगी और लड़ाई नहीं करेंगी, उनको इस चीज़ के लिए समाज और देश दोनों से लड़ाई करनी पड़ेगी, साथ ही जितने ग़ैर-तरक्क़ी पसन्द लोग हैं जिनके दिल में तो कुछ और ही रहता है लेकिन जो समय २ पर धर्म ग्रन्थों और शास्त्रों को कोट करके हम स्त्री जाति को पीछे रखना चाहते हैं, समाज में औरत का ख़रीदना और बेचना जारी रखना चाहते हैं, उनके साथ भी हमें लड़ाई करनी होगी और अपनी आवाज़ उनके विरुद्ध बुलन्द करनी होगी और मैं आप से सच कहती हूं कि जैसे वह दिन दूर नहीं है जब कि सरमायादार गरीब का शोषण नहीं कर पायेंगे, जिस प्रकार यह दिन आने वाला है, उसी प्रकार मैं आपसे कहना चाहती हूं कि वह दिन भी दूर नहीं है और जल्द आने वाला है जब औरतों का आपको एक्सप्लायटेशन बन्द करना होगा और अगर उस वक्त आप मेरे सामने आकर यह कहें कि शास्त्रों में यह लिखा है कि तुमको बिकना ही होगा, शास्त्रों में लिखा है लड़की की शादी में पैसा देना ही होगा, तो मैं कह देना चाहती हूं . . . . .

Pandit K. C. Sharma (Meerut Distt.—South): That is already an offence, Sir, under the Constitution.

श्रीमती सुभद्रा जोशी: अगर इस क़िस्म की बात उनमें हो, उसके लिए तो सभापति महोदय, मैं ने पहले ही कह दिया कि मैं संस्कृत जानती नहीं.....

Pandit K. C. Sharma: Why is she slandering the sacred book? There is no such thing written anywhere in it.

Shrimati Sucheta Kripalani (New Delhi): That is the practice.

Mr. Chairman: Let there be no interruption.

Pandit K. C. Sharma: I am raising a point of order, Sir. Is the hon. Member entitled to slander the sacred books, in which other people believe, without knowing what is contained in them?

Mr. Chairman: There is no point of order and there is no substance in it. The hon. Member ought not to interrupt when a lady Member is speaking.

Shri R. K. Chaudhury: Does it mean that any Member of this House can slander any religious book? Is it not a point of order? I think hon. Members will be angry if, for instance, I say anything against the Bible.

Mr. Chairman: I am sorry to say that he is speaking in the same way as the previous hon. Member and this is not allowable by way of interruption.

श्रीमती सुभद्रा जोशी : सभापति महोदय, अगर मैं ने अपने कुछ सदस्यों के दिलों को चोट पहुंचायी है, तो मैं उनसे इसके लिए क्षमा चाहती हूं ।

मैं साफ कह देना चाहती हूं कि जिन शास्त्रों को ये लोग मानने वाले हैं, मैं भी उन्हीं शास्त्रों को मानते हुए इतनी बड़ी हुई हूं । तो मैं यह कह रही थी कि जिस वक्त जो बुराई समाज में हम अपनी आंखों से देखते हैं और जब हम उस बुराई और एक्सप्लायटेशन को हटाना चाहते हैं, उस वक्त अगर कोई साहब हमारी धार्मिक किताबों को कोट करे, तो मुझे उनकी नीयत पर शक होने लगता है, जैसा मैंने पहले आपसे कहा, संस्कृत तो मैं जानती नहीं और शास्त्र मैं ने पढ़े नहीं हैं, पर जिस वक्त मैं यह देखती हूं कि अगर कोई धार्मिक पुस्तक का नाम ले जिसे देश के करोड़ों आदमियों ने नहीं पढ़ा है, बहुत कम लोगों ने उन को पढ़ा होगा, अगर उन पुस्तकों का नाम लेकर आप मुझ पर जुल्म करना चाहें या सोसाइटी के किसी हिस्से पर जुल्म करना चाहें, तो यक़ीन मानिये एक दिन ऐसा आने वाला है कि उन की इज्जत खत्म हो जायगी और वह धर्मशास्त्र ताक़ में धर दिये जायेंगे । मैं ने आपसे कहा कि मेरा मंशा उन पुस्तकों पर कोई रिफ्लेक्शन डालना नहीं है, लेकिन मैं इतना जरूर कहना चाहती हूं कि जिस तरह उन पुस्तकों का नाम लेकर आप मजदूरों का गला नहीं काट सकते, आप किसानों का खून नहीं पी सकते, उसी तरह वह दिन दूर नहीं जब आप औरतों के रास्ते में रोड़ा नहीं अटका सकते ।

कुछ भाइयों का यह कहना है कि इसके लिए क़ानून पास करना जरूरी नहीं है, तो मैं उन भाई से कहना चाहती हूं कि उनका कहना किसी हद तक ठीक है, लेकिन मैं उनको बतलाऊं कि हमारे यहां दो क़िस्म के लोग होते हैं, एक तो वह लोग हैं जो यह समझते हैं कि इस कांग्रेस की हुकूमत से किसी ग़रीब का भला नहीं होने वाला है, कुछ लोगों का यह यक़ीन है कि कांस्टीटयूशनल तरीक़े से क़ानून द्वारा किसी गिरी हुई जाति का इस देश में भला होने वाला नहीं है और वह दूसरा रास्ता अख्तियार करने को कहते हैं और वह वायलेंस से उस कुरीति को हटाना चाहते हैं, एक एवोलूशन का रास्ता है, दूसरा रेवूलूशन का रास्ता है । आज समाज का बच्चा बच्चा इस कुप्रथा के खिलाफ पुकार रहा है, अगर उसको हमने रोकने की कोशिश नहीं की तो हो सकता है कि वह तमाम चीजें ग़लत रास्ते पर चली जायं और उसका समाज पर बुरा असर हो और चूंकि अनेक सदियों से स्त्री जाति हमारे समाज में पददलित रही और मुसीबत में रही है, इसलिए हमारा यह फ़र्ज है कि हम क़ानून का सहारा लेकर उनको खड़ा करने की कोशिश करें, यह क़ानून जो हम बनवाना चाहते हैं, यह तो एक थोड़ा सा उनको उठाने के लिए सहार है, बाकी सहारा वह बेचारी औरतें खुद तलाश कर लेंगी । यह तो एक मामूली सा सहारा होगा जो कि आप देंगे और लोगों की तवज्जह इस तरफ़ करेंगे कि इस क़िस्म का काम करना मना है, इस बात को मैं मानती हूं कि उसके लिए हमें लोगों को एज्यूकेट करना चाहिए, लेकिन ऐसे भी, बहुत से लोग होते हैं जो शिक्षा से नहीं मानते वह डंडे से मानने वाले होते हैं, शिक्षा इस दिशा में बहुत उपयोगी सिद्ध होगी, लेकिन कुछ लोग शिक्षित होते हुए भी इस को नहीं मानते और उनके लिए डंडे की जरूरत पड़ती है और मैंने सुना है कि हमारे धर्म ग्रन्थों

में विशेष अवस्था में दंड विधान की व्यवस्था दी गयी है, साम, दाम, दंड, भेद इन चारों में दंड की भी अपनी विशेषता है और वह भी एक जरूरी चीज है। यह कोई मजाक की चीज नहीं है, यह जो आज स्त्री जाति पर अत्याचार हो रहा है, हमें उसको महसूस करना चाहिए और इस सम्बन्ध में मेरी आपसे यह प्रार्थना है कि आप इस बिल को फ़ौरन पास करें और इसके साथ दूसरा अमेंडमेंट जो दंड का है, लेने वाले को दंड भी मिलना चाहिए, वह जरूर उसके साथ लगा दिया जाय।

श्री नन्द लाल शर्मा : मुझे श्रीमती उमा नेहरू ने इस बिल के आवजेक्टस् एन्ड रीजन्स के विषय में जो शब्द कहे हैं और जो उद्देश्य बतलाया गया है, उस उद्देश्य और उस भावना से जो इस बिल में निहित है, किसी प्रकार का मतभेद नहीं है .....

Mr. Chairman: I would request the hon. Member kindly to be as brief as possible. I have got something like 15 persons who have given their names in the list for speaking on this matter. But I am not going to follow this list as there are others who have not sent in their names and who may perhaps be more anxious to speak. However, the time at our disposal is limited.

Pandit K. C. Sharma: Please give five minutes each.

Mr. Chairman: I have no objection. The point in dispute so far as this Bill is concerned is not very serious. There are only a few amendments to the Bill and it is not a very complicated affair. I would request hon. Members only to take five minutes each.

Pandit K. C. Sharma: Will you go by the list or by the eye?

Mr. Chairman: I have already indicated that the list will not bind the Chair.

Shri R. K. Chaudhury: May I know whether the rule of five minutes will apply to women Members also?

Mr. Chairman: I have not fixed any time limit for the Bill and in the case of lady Members who are more interested in this Bill, more time may be given and so also in the case of those who are opposed to the Bill, but I leave it to the discretion of the Members themselves.

Shri Dabhi (Kaira North): Sir, some of us have already introduced similar Bills. I therefore submit that when this Bill is discussed we should be given a priority—not exactly priority—but those who have introduced similar Bills should be given some time.

Mr. Chairman: Order, order. The mere fact that a Bill has been introduced by an hon. Member does not show that he is more qualified to speak on this Bill than the others who have given notice of amendments. As the time is limited I shall have to make a selection. The hon. Member may rest assured that his case will also be considered on merits.

श्री विभूति मिश्र : मैं एक बात यह पूछना चाहता हूं कि जिन १५ आदमियों ने अपने नाम दिये हैं वही बोलने का अवसर पायेंगे या दूसरों को भी मौका मिलेगा।

Mr. Chairman: It appears the hon. Member was not attentive when this question was put by Pandit K. C. Sharma and the Chair gave a reply.

If suggestions are coming only on this point ten minutes will be spent on this!

Shri C. Bhatt (Broach): Sir, I suggest that more time should be given to those who have daughters and less time to those who have only sons.

श्री नन्द लाल शर्मा :

नमोऽस्तु रामाय सलक्ष्मणाय देव्यैचतस्यै जनकात्मजायै ।
नमोऽस्तु रुद्रेन्द्र यमानिलेभ्यो नमोऽस्तु चन्द्रार्क मरुद्गणेभ्यः ।

समय का बन्धन मुझ से आरम्भ किया गया है । इसलिये मैं निवेदन करूंगा कि जिस दृष्टिकोण को आपके सामने रखने लगा हूं शायद वह दूसरा कोई रख न पावे । इस लिये आप कृपा कर के समय का बन्धन यहां मुझ पर न लागू करेंगे ।

Mr. Chairman: This is the reason why I called upon the hon. Member to speak.

श्री नन्द लाल शर्मा : मैं ने जैसा निवेदन किया है कि मैं इस विधेयक के उद्देश्यों से सर्वथा सहमत हूं । कोई यदि उद्देश्यों सम्बन्धी जगह को देखे तो जहां यह शब्द कहे गये हैं कि 'एग्जार्बिटेन्ट चार्जेज' होते हैं अथवा आगे चल कर जो यह शब्द कहे गये हैं कि कन्याओं का विक्रय होता है, इन दोनों बातों का कोई भी सभ्य व्यक्ति, कोई भी सभ्य समाज का आदमी समर्थन नहीं करता है और न कर ही सकता है । इस लिये इस दृष्टिकोण में कोई मतभेद नहीं है । केवल दो एक शब्द कहना चाहता हूं । इस बिल को देख कर के यह जो कालीदास का यहां नाम लिया गया, भवभूति के शब्द कह डाले, फिर बाद में कुछ और ही कहा गया । हम को खेद हुआ कि इस बिल के नाम के ऊपर लिखा है "डावरी रिस्ट्रेन्ट बिल" । किन्तु उस को पढ़ने पर पता चलता है कि वह 'डावरी ऐबालिशन बिल' है । उस में रिस्ट्रेन्ट नहीं है, एक प्रथा को, एक अधिकार को सर्वथा मिटा दिया गया है । और वह अधिकार किस के लिये है ? हमारे लिये नहीं, हमारी बहन, बेटियों और बच्चियों के लिये और हमारी माताओं के लिये है । उस पर भी एक बात में खेद से अनुभव करता हूं कि हमारी बहन सुभद्रा जोशी ने पुरुष समाज और स्त्री समाज के लिये न जाने क्या क्या शब्द कह डाले । यह मेरा अपना अनुभव है कि पुरुष समाज और स्त्री समाज दोनों अलग अलग समाज नहीं हैं । हर पुरुष के घर में उस की पत्नी, उस की कन्या, उस की बहन होती हैं और अगर यह तीनों नहीं भी हैं, तो भी कोई पुरुष ऐसा नहीं हो सकता जिस के घर में मां न हो । और माता यदि चाहे तो वह केवल अपनी बालिका को ही पैदा करे, और अगर पुरुष और स्त्री को दो समाज मानने लगें तो लड़का होते ही उस को स्वाह कर दे, नष्ट कर दे, मिटा दे । इस लिये मैं समझता हूं कि जो पाश्चात्य सिद्धान्त से, पाश्चात्य ढंग से चल कर के हम ने पुरुष और स्त्री के दो समाजों की भावना प्राप्त की है उस को हमें प्रथक कर देना चाहिये ।

इस के साथ साथ में इस बिल पर भी दो चार शब्द कहना चाहता हूं, और वह यह है कि आप की इस डावरी की डेफ़िनिशन में यह शब्द हैं :

"'Dowry' means anything paid in cash or kind as a part of the contract of any betrothal or marriage"

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मेरा अत्यन्त नम्रता से निवेदन है कि जहां तक हिन्दू धर्म शास्त्रों को हम देखते हैं, यह शब्द हिन्दू विवाहों पर लागू नहीं होते हैं । कारण क्या है ? हिन्दू विवाह ही सारे विश्व में एक मात्र विवाह है जो कंट्रैक्ट नहीं है । हिन्दू विवाह तो एक संस्कार है । जैसा श्रीमती उमा नेहरू ने कन्यादान शब्द कह कर प्रायश्चित की बात बतलाई है, उस सम्बन्ध में मैं केवल इतना ही कह सकता हूं कि समय परिवर्तन होने पर जो धर्म को अधर्म समझता हो,

अच्छी बात को बुरी बात समझता हो, यह उसके दुर्भाग्य का समय है, समय परिवर्त्तन है। कन्या को दान इस लिये नहीं किया जाता है कि कन्या को पशु समझा जाता है। गऊ को दान इस लिये नहीं किया जाता है कि गऊ को पशु समझा जाता है। गऊ का दान हिन्दू धर्म में इस लिये है कि गऊ को माता समझा जाता है, गऊ का दान सब से पवित्र धर्म माना जाता है :

'इष्टं धर्मेण योजयेत्',

जो सब से प्यारी वस्तु हो उस को धर्म को अर्पण करना होता है। कन्या को भी जिस समय दान करने के लिये कहा है तो उस को पशु रूप से दान करने के लिये नहीं कहा :

इमां श्रीरूपिणीं कन्यां विष्णुरूपिणे वराय तुभ्यमहं सम्प्रददे।

"लक्ष्मी रूपी कन्या को मैं विष्णु रूप वर के प्रति अर्पण कर रहा हूं" यह शब्द आते हैं, यह शब्द नहीं आता है कि "मैं एक पशु को लेकर के" अथवा "अपने एक पशु को ले कर" देता हूं। हिन्दू धर्म शास्त्र और हिन्दू सभ्यता के साथ इस प्रकार से अन्याय नहीं होना चाहिये। आप डावरी को रिस्ट्रेन्ट करें, तथा कन्या के विक्रय को रोकें। समाज के अन्दर और जो गल्तियां आ गई हों उन को आप रोकें, हम कभी भी उसका विरोध नहीं करेंगे। किन्तु मैं एक बात जरूर चाहता हूं कि माता पिता ने जिस कन्या को, अपनी संतान को अत्यंत स्नेह से पाला है, उस को जिस समय वह दूसरे कुल में अर्पण करने लगते हैं तो उन के मन में स्वयम् यह भाव आता है कि मैं अपनी सम्पत्ति में से एक भाग कन्या के लिये निकाल दूं। यह अनुचित है कि वह अपनी शक्ति के अनुसार, जो कुछ कि उस के अन्दर शक्ति हो, उस कन्या को दान करे, लक्ष्मी रूपी कन्या को, उस लक्ष्मी रूपी कन्या के स्वतंत्र निर्वाह के वास्ते वह उस को स्वीकार न करे। जो कुछ कि उस को आग्रह से दिया जा रहा है वह उस को स्वीकार करना चाहिये। पिता ऐसी रूप से देता है जैसे दक्ष ने अपनी कन्याओं को अर्पण करते समय कहा कि अब संसार को प्रचलित करो, पूरे संसार के कल्याण के लिये। मैं संसार के उपयुक्त जो ग्राह्य सामग्री है वह तुम को अर्पण करता हूं। इस लिये मेरा कहना है कि डावरी को सर्वथा रोकना, दहेज को सर्वथा रोकना अनुचित है। जहां माता पिता अपनी शक्ति से बाहर काम करते हैं वहां दहेज को रोकना उपयुक्त है, उचित है और मैं समझता हूं कि मैं क्या कोई भी उसका विरोध नहीं करता।

श्रीमती सुभद्रा जोशी ने यह शब्द कहे कि जो लोग इस बिल का विरोध करते हैं उन के घरों में देखना चाहिये कि उन के कितनी कन्यायें हैं और कितने लड़के हैं। मेरा केवल इतना निवेदन है, इस दृष्टिकोण से कि यह भाव आप को नहीं रखना चाहिये। हमारे यहां पुत्र का भी दान किया जाता है।

श्री एस० सी० सिंघल (जिला अलीगढ़): पुत्र का दान ?

श्री नन्द लाल शर्मा : कठोपनिषद में दिया है कि उद्दालक अरूणी सर्ववेदस् यज्ञ कर रहे हैं और वह गउओं को दान कर रहे हैं :

पीतोदका जग्धतृणा दुग्धदोहा निरिन्द्रियाः। अनन्दा नाम ते लोकास्तान् स गच्छति ता ददत्॥

जो गायें पानी पी चुकी हैं, अब और पानी पीने की ताकत उन में नहीं है, जो

[श्री नन्द लाल शर्मा]

गायें घास खा चुकी हैं कि और घास चरने की उन में ताकत नहीं है. ऐसी गायों का जिस समय दान करने लगते हैं तो उस समय नचिकेता समझ गया कि मेरे पिता स्वार्थ वश, ममतावश मेरे लिये अच्छी गायें रख रहे हैं, इससे मेरे पिता का कल्याण नहीं होगा। उस समय नचिकेता कहते हैं :

तत कस्मै मां दास्यसीति

पिता मेरा दान किसके प्रति करोगे एक बार कहा, दोबारा कहा, तीसरी बार कहा। जब तीसरी बार कहा तो पिता ने उत्तर दिया 'मृत्यवे त्वा ददामि' कि मैं तुमको मृत्यु को दान करूंगा। उस समय नचिकेता स्वयं मृत्यु के पास जाते हैं। पिता की आज्ञा पुत्र के लिये सर्वस्व है। यह श्रुति है कोई कहानी नहीं है।

एक माननीय सदस्य : दान नहीं है, त्याग है।

श्री नन्द लाल शर्मा : दान शब्द का अर्थ त्याग ही होता है। दान का अर्थ है अपने स्वत्व अधिकार का परित्याग करके दूसरे के स्वत्व अधिकार का सम्पादन करना। इसलिए मेरा पुन: निवेदन है कि सबके देखते देखते राजा दशरथ ने अन्याय पूर्वक श्री राम को बनवास दिया। राम ने स्वीकार किया अपने आपको पिता की सम्पत्ति कहकर। संतान रूप से पिता की सम्पत्ति अपने आपको मानना पुत्र तथा कन्या दोनों का कर्त्तव्य है। तो इस भावना से कन्या का दान किया जाता है कोई पशु पक्षी की तरह नहीं, या कोई सम्पत्ति समझ कर दान करने की भावना नहीं है।

इसके साथ मैं दो शब्द और कहना चाहता हूं। औरतों को अधिकार है कि उनके लिए यह होना चाहिए और वह होना चाहिये। हम तो इस औरत शब्द का प्रयोग करना भी उचित नही समझते। हमारे यहां अपनी पत्नी को छोड़कर समस्त विश्व की देवियां या तो मातायें हैं, या बहिनें हैं या कन्यायें हैं। इसके अतिरिक्त हमारी उनके साथ कोई भावना नहीं है। हम पाश्चात्य सभ्यता के ढंग से स्त्री को विलासिता का केन्द्र समझ कर उसका सूर्पनखा के रूप से स्वागत नहीं करते। हम तो सीता की तरह ही उसका स्वागत करते हैं। हम लक्षमण की तरह देवियों को देखते हैं जो कि कहते हैं :

कङ्कणौ नैव जानामि नैव जानामि कुण्डले।
नूपुरावेव जानामि नित्यं पादाभिवन्दनात्।

मैं सीता के कंकण को नहीं पहचानता, मैं सीता के कुंडल को नहीं पहचानता, मैं उनके नूपुर को पहचानता हूं क्योंकि मैं नित्य उनके चरणों की वन्दना करता था। मैं ने सीता के हाथ नहीं देखे, मैं ने सीता के कान नहीं देखे, मैं ने तो सीता के केवल चरण देखें हैं। इसलिए मेरा यह निवेदन है कि हम बहुत प्रयत्न करेंगे तो स्त्री को पार्लियामेंट का चेयरमैन बना देंगे या स्पीकर बना देंगे परन्तु हम दुर्भाग्यवश उसके मुंह पर ढाढ़ी मूंछ पैदा नहीं कर सकते इसका हम क्या करें। माताओं का पूर्ण मान रखते हुए मैं यह कहता हूं कि एक पुरुष चाहे तो एक वर्ष में सैकड़ों गर्भ दे सकता है पर स्त्री हजार प्रयत्न करके भी मर जाय तो भी वह दस गर्भ भी नहीं धारण कर सकती है।

Mr. Chairman: Order, order, I am very sorry to interrupt. What the hon. Member says is very interesting but beside the point and it is not relevant to the Bill. The status of women only comes in incidentally so far as this Bill is concerned. He is expatiating on the status of women in Hindu society. I would request him to bring

his remarks to a close unless he has anything relevant to say.

Shri Nand Lal Sharma: I raised the points only so far as they were referred to here.

Shri Dhulekar (Jhansi Distt.—South): It should be more decent.

Some Hon. Members: It should be expunged.

श्री नन्द लाल शर्मा : मैं ने कोई अनुचित शब्द कहने का प्रयत्न नहीं किया है। मेरा यह कहना है कि प्रकृति के द्वारा जो असमानता सम्पादन कर दी गयी है उस असमानता को कैसे दूर किया जा सकता है। वैसे तो हमारे यहां पिता से माता का दस गुना गौरव माना गया है पितुर्दशगुणामातागौरवेणातिरिच्यते। इसी लिए हम राम से पहले सीता का नाम लेते हैं, शंकर से पहले गौरी का नाम लेते हैं, नारायण से पहले लक्ष्मी का नाम लेते हैं।

Mr. Chairman: I have already indicated that this point about status of women in Hindu society is only very remotely relevant here.

श्री नन्द लाल शर्मा : I am coming to a close. I thank you very much for the time that you have given to me.

मेरा इतना निवेदन है कि माता पिता का यह कर्त्तव्य है कि वह कन्या को अपने घर से बिल्कुल खाली हाथ न चलावें, उसको कुछ न कुछ देना चाहिए। इस सम्बन्ध में स्टेटमेंट आफ आबजेक्ट्स एण्ड रीजन्स में जो यह दो बातें दी हुई हैं कि :

"As a result of this custom many persons have to pay exorbitant sums to secure bridegrooms for their daughters. Again, in some parts there is regular traffic of selling and buying girls."

यह तो हमें सर्वथा मान्य है। इनको कोई कानून बनाकर रोकना चाहिए। परन्तु यदि इसका यह अर्थ है कि डाउरी देना सर्वथा नष्ट किया जाय तो उसका मैं विरोध करता हूं और अत्यन्त शुद्ध भाव से विरोध करता हूं। मैं समझता हूं कि श्रीमती उमा नेहरू जी मेरी भावनाओं को समझेंगी और उनके उद्देश्य का विरोध न करते हुए, किसी भी डाउरी देने वाले को दंड दिया जा सके इस भावना का मैं विरोध करता हूं। हमारे शास्त्रों के अनुसार माता पिता की ओर से कन्या को जो आभूषण वस्त्र आदि दिया जाता है वह सब स्त्री धन ही है और यह भी कहा गया है कि स्त्री धन से जीवन निर्वाह चलाने वाला व्यक्ति नर्क का भागी होता है। और संसार में कलंक का भागी होता है। इसलिए उसे कभी भी किसी धर्म शास्त्र ने स्वीकार नहीं किया।

Shrimati Renu Chakravartty: (Basirhat): Ever since some of us have introduced similar Bills in this House, we have received many letters congratulating us and telling us that this is a Bill which seeks to eradicate evils which are today burdening entire society, and leading to hardships —not only hardships, but are demeaning to the human dignity both of men and women. I am sorry to say that in a section of this House this Bill has been treated with a certain amount of levity.

Some Hon. Members: No, no.

Shrimati Renu Chakravartty: There has also been a tendency to regard this Bill as a battle between men and women.

Some Hon. Members: No, no.

Shrimati Renu Chakravartty: It is unfortunate. In the Statement of Objects and reasons, I would have liked it to be stated: "this custom of not only paying exorbitant sums to secure bridegrooms for their daughters," but also *vice versa*. This custom, in cer-

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tain castes and in certain communities does act in a manner whereby bridegrooms also have to pay exorbitant sums for getting wives. I would like the whole matter to be treated as a part of feudal exploitation which still remains in our country. I will illustrate my remarks further on to show that this is a form of exploitation which every section of the House, every section of the people should oppose, if we stand for human dignity, for equality about which we have written so much in the Constitution.

I should just like to say one or two words about the speech that has been just made on the floor of the House. The latter part of his speech I shall not mention because I think it was undignified. But, in the first part of it, the speaker was pleased to say that he regarded everybody as a kanya, as a mother or a sister and that he was against dividing up society as men and women. But, I would like to ask this. When it comes to a question of property, different scales and different theories are propounded in order to make a differentiation and divide up society. When it comes to a question of wages, even though we have propounded many times in the Constitution that we stand for equality between the sexes, no equal wages still prevail. Therefore, there is no use saying it is due to western culture. We should not forget our own evils, and try every time to raise this question of "Dharma" and get away with it.

The second point I would like to mention is this (*Interruption*) I do not give way to him, Sir. He says that gifts which are given according to the ability to pay of the father of the bridegroom or the bride, this Bill is going to stop even that. My point is that we have nowhere said that a certain amount as gifts will not be allowed, but the very fact that you are trying to introduce into this Bill some such clause is only the thin end of the wedge whereby you want to allow further exploitation and get away with it by saying that this is a voluntary gift. That is exactly what we want to prevent. If there are certain legal terms which are loose here and there, I am sure the proposer will be prepared to accept certain amendments but the real point is that dowry is not voluntary. Today it is a question of commercialised vice, it is something which we are demanding as an exchange for buying and selling, sons and daughters and that is what we want to object to and that is why we are bringing forward this Bill

Another point which I should like to mention is this, that we do not believe that only legislation or only one legislation is going to bring about a change and bring about equality between man and woman. We think that this is just a method, just a small measure, whereby we can focus attention, whereby the entire consciousness of the public will be roused. But, I object to what my friend Prof. Sharma has said, *viz.*, that we must elicit public opinion. If it is a question of eliciting public opinion, we who have supported the Hindu Code Bill know what it means. It means a method of sabotaging the whole thing, and therefore, we very, very strongly object to this Bill being sent for eliciting public opinion.

Shri Nambiar (Mayuram): Must be passed straightway here and now.

Shrimati Renu Chakravartty: Now I come back to my point, about the Bill being not only for women. The Bill seeks to stop exploitation which has come down as a result of the feudal structure of our society. Many friends here have said that social legislation is something that only touches the superstructure of things, that we are only touching the fringe of the problem; unless we have basic changes,—economic changes, political changes, such social legislation will not be of much use. There is a certain amount of truth in it, but I would say that the whole concept of bringing this Bill is that it is a fight against exploitation and inequality, and that by bringing this forward we

want that other measures, fundamental measures for bringing about economic equality should be strengthened. Every step towards progress helps us to strengthen the general movement of progress for economic and political equality and independence. Therefore, I do feel that while we want to pass this legislation, we also want a great public opinion to be created whereby not a single person, man or woman, can either give or receive dowry. What have we seen in the case of the Sharda Act? It is true we have passed that Act, but what has happened? That Act has remained a dead letter. We have passed the Remarriage of Widows Act, but what do we see? Everywhere the same oppression of widows continues. The same sort of difficulty continues for widows to get married. Yet, on the other hand, in spite of the fact that we have not got a law insisting no monogamy, social opinion does go against it. Therefore, we should boycott every case of dowry, we should create such a huge opinion about it that no single person will be able to give or take dowry. That is our whole idea in bringing this Bill. A huge public opinion has to be created along with the passing of this Bill. That is the point which I wish to make clear.

Another point which I would like to make is this. Those who are working among the *Kisans* in the *kisan* movement, have seen that this type of taking and giving dowry has become linked up with exploitation of the agriculturists, of the lowest classes of society. For instance, I will give you the case of the people living in Tipperan. Among the Rials in Tipperan for three years a girl has to go and work in the house of the man she is to marry (*Interruption*) oh, no. Amongst the Tipperites, it is the man who has to go and work in the house of the woman he has to marry. And here is the proof of the exploitation. There are many examples where after having worked without any money, only for food and clothing, for two years and nine months, sometimes ten months, the marriage is broken off, and again for three years he has to go and work in another place. And for years this form of *begar* exploitation goes on. It is not a matter for laughing. It is a question of *begar* labour which is a very big problem, a problem which those who work among the *Kisans* have to take note of. So, it is a question of bringing to the forefront this feudal exploitation. As far as *begar* goes in general agricultural terms, we know about and we fight against this *begar* form of labour wherever it is direct, but even in an indirect form this *begar* labour is introduced and must be fought.

In the case of the Maugs, a woman has to procure by whatever means she can, sometimes even to the point of prostitution, money to be able to buy a bullock, a plough-share and the essential household goods as dowry. These are certain things that are actually prevalent amongst the tribals. You will see in very clear form how it is a practice descending from feudal exploitation. Of course, when we come to the upper castes, all of us know what actually happens. In my province...

The Minister of Law and Minority Affairs (Shri Biswas): Will this Bill stop all this?

Shrimati Renu Chakravartty: I would again like to make it clear to the hon. Minister that...

Mr. Chairman: I would request hon. Members not to take this Bill in such a light manner. There is no question of laughter etc.

Shri Biswas: That is exactly why I put the question. As a matter of fact, she is talking about the Dowry Bill, and if we knew that the Dowry Bill would put an end to these evils, every one of us would be glad, and we should welcome it.

Shrimati Renu Chakravartty: I would like to ask the hon. Minister whether by introducing the Estate Duty Bill he will be able to stop all

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the people who are taxable from getting away from it. Therefore, if he looks upon every legislation from this point of view of its being able to stop every evil, then I think we should all go home and not come to Parliament.

As far as the higher castes are concerned, I come from a province...

Shri Biswas: You suggested that we were treating the Bill with levity. I was repelling that charge.

Shrimati Renu Chakravartty: I am very glad he is taking it with very great seriousness, and I am sure he will also see his way to accept it and tighten up the Bill.

I was talking about my own province. Those who come from Bengal, or maybe from other provinces too may know the case of Snehalata where a woman, because her parents were not able to give the amount of money asked for dowry and there was a certain amount of trouble over it, had to suffer great indignity, and in the end she had to put an end to her life, she committed suicide. At that time public opinion was roused on that matter, and for some time at least, there was a feeling that something must be done whether by legislation or by public action to stop such things. I have been to colony after colony of refugees where I have seen that girls of 18, 20, 25, even 30 are unable to be married off by their parents because they have not got the money to be given as dowry. Nor are they educated, so that they are unable to stand on their own feet, nor can they be married off. We also know of cases in which this question of commercialisation has come to such a pass that, because fathers cannot get rid of their daughters, some one is shown during the preliminary arrangements of the marriage as the bride, and then during the marriage somebody else is brought in and the girl is married off, because the amount of dowry that would have to be paid otherwise would be exorbitant. And then we know what the fate of this girl would be.

I would also state—because I have an amendment on that point which I shall raise at a later stage—that not only do I want that dowry to be given at the time of marriage should be included in this Bill, but also anything that can be regarded as dowry which is extorted even after marriage, within a period of three years, should be included. Because, in my parts I have seen that such demands are made and continue to be made, after marriage, and unless they are fulfilled by the parent, there is a great deal of hardship on the girl, and many cases have come to us where life has become a hell for them. Therefore, I would like this amendment also to be included here.

Now I would like to say why it is that we support this Bill. We support this Bill with a view to muster great public opinion against the feudal exploitation of dowry and passing legislation is only a part of the struggle without which we cannot do anything. As far as I am concerned. I am quite clear about that. We also know that this is only a partial thing. But we support every partial measure because we believe that by supporting every partial measure for relief, we are able to support something much bigger that is to come. By always raising fundamentals, we will not be able to get very far. Sometimes we have to support partial measures. Therefore, we feel that any move that supports something that is progressive, something that tries to raise human dignity, something that tries to reduce exploitation should be supported wholeheartedly and I hope that Government will see its way to support this Bill instead of sending it for eliciting public opinion etc. and thereby sabotaging this Bill.

Shri Dabhi: I rise to support the motion moved by Shrimati Uma Nehru. Sir, I am glad to support this Bill because it was I who for the first time

introduced a similar Bill in the Bombay Legislative Assembly. There, according to the rules of procedure, the Legislative Assembly passed the first reading of the Bill. Then, Sir, it was sent for eliciting public opinion, and I may inform the House that an overwhelming majority of the people who sent in their opinion were in favour of this Bill. Not only that, Sir, I received several—not only several, but numerous—letters and numerous resolutions from various social oganisations congratulating me for introducing that Bill.

Then, Sir, that Bill was, according to the rules prevailing there, referred to a Select Committee. But one hitch came in the way of passing that Bill and that was that at that time the Hindu Code Bill was being discussed on the floor of this House, that is, the provisional Parliament, and clause 93 of that Bill in fact recognised dowry. So the Select Committee was of the opinion that perhaps it might go against it and that the Bill, if passed, might be repugnant to that particular section of the Hindu Code Bill. It was for this reason that it was not proceeded with.

Now, Sir, you will see from the definition that 'dowry' includes both the bride's price as also the bridegroom's price. I may call the bride's price as 'Kanya Vikraya' and the bride-groom's price as 'Var Vikraya'. Sir, I do not think in the whole of India there is any community in which either 'Kanya Vikraya' or 'Var Vikraya' is not prevalent. Sir, we know that according to the Hindu Sastras, all the educated and orthodox people—everybody—condemn this *kanya vikraya*. According to Baudhayana, those who take bride's money, those who take money for their daughters, are condemned to eternal hell. One verse says:

शुल्केन ये प्रयच्छन्ति स्वसुतां लोभमोहिताः।
पतन्ति नरके घोरे घ्नन्ति चासप्तमात् कुलात् ॥

"Those greedy people who give their daughters for a price fall into into eternal hell."

Another verse of Padma Puran says:

कन्याविक्रयिणां राजन् न पश्येद् वदनं बुधः
दृष्ट्वा चाज्ञानतो वापि कुर्यान्मार्तण्डदर्शनम् ॥

"One should not see the faces of those who sell their daughters. In case he does so through inadvertence, he should make penance."

Now, I can point out any number of evils of this system of 'kanya, vikraya'. In the first place, the bridegroom's people have to pay exorbitant sums to the greedy father of the girl, who does not know what would become of his future son-in-law as a result of his being deprived of everything.

Shri Dhulekar: May I put a question? Is it not a question of population. In Punjab where the girls are small in number, the husband's people have to pay and where the girls are in abundance, the girl's people have to pay.

Shri Dabhi: In the second place, Sir, the very idea of a human being given away for money is detestable. It is tantamount to selling one's daughter. This means that they are no better than chattels or cattle. We know that the more useful the cattle, the more price it will fetch. In the same way, in communities where this *kanya vikraya* prevails the more useful the girl, the more price she will fetch. That is the condition.

Then, Sir, another effect of this custom of *kanya vikraya* is this: that the man who wants to take money for his daughter does not care to know whether the bridegroom is a fit one or not. And in communities where this custom prevails, the position is that the older and uglier the bridegroom, the more money he has to pay. So the result has been that in several cases very beautiful girls are compelled to marry ugly people and girls having milk teeth in their mouth have to marry people who have no teeth in their mouth.

[Shri Dabhi]

Sir, I would now refer to the custom of 'var vikraya'. Here also, Sir, in those communities where this custom prevails, people have been financially ruined as a result of trying to find out money for giving to their sons-in-law. Sir, I would quote only one example. It actually happened in Gujarat. Several such cases are happening. Sir, there were two families. The boy's family and the girl's family, both were ordinarily educated. But the girl's father was of ordinary means. The girl and the boy both were educated. Then the girl's father, though of ordinary means, was able to say that he would be able to pay Rs. 5,000. But the boy's father said: "No, no. My son is not an ordinary mango. He is an *aphus* mango, an alfanso mango, and therefore, he should have more price." This is the position, Sir, where this custom prevails.

Then again, another terrible result of this dowry system is this. It happened previously and is now happening in certain communities, at least in Kaira district. The mothers-in-law have, either in connivance with their sons or with the assistance of their sons, persecuted the girls to such an extent....

Mr. Chairman: More than seven minutes are over. I would request the hon. Member to conclude.

Shri Dabhi: So there have been several cases in which the mothers-in-law have not only persecuted their daughters-in-law, but sometimes they have actually killed those innocent girls and in certain cases they have persecuted them so much with a view to compelling the girls' fathers to pay more dowry money that the girls have had to put an end to their lives either by hanging or by pouring kerosene oil on their clothes and burning them. Such has been the terrible effect of this system.

Such has been the terrible result of this system, Sir. I have no time; otherwise I would have given you several instances of how the bride's people have felt. I would give an interesting instance of that. I will read a few lines from the weekly paper *Vigil* dated 31st March, 1952. At page 5 this news is given.

> "It is said that Munshi Baldev Lal of village Sangampur in the district of Gaya went to Hilsa with a *barat* for the marriage of his son with the daughter of Sri Hargouri Lal of village Phulwaria. Some trouble arose with regard to the payment of dowry. It is said some persons of the bride's side, annoyed with the arrogant attitude of the bridegroom's party, kept one box of scorpions in the *janwasa* with the result that about 30 persons became victims of scorpion's sting and four persons became unconscious."

An Hon. Member: So that should be the fine.

Shri Dabhi: This custom of *raya* is based on the idea that woman is inferior to man and that when a man takes a bride and at the same time asks for some money to be given to him, it means that if the bride and the bridegroom are weighed in the balance, the scale of the bride would go up and therefore some money has to be put on the pan so that they may be equal. This idea that woman is inferior to a man, as Shrimati Renu Chakravartty put it, goes against the Constitution.

Lastly, as regards public opinion, I said I have received several letters and several resolutions and so I have no doubt that there would be anybody against this Bill.

Lastly, Sir, one point. The hon. Law Minister said that he is prepared to support this Bill if this evil could be stopped. Has any evil been stopped by any other legislation. The Penal Code is there and several offences are punishable. Would anybody show a single instance where evil has

been altogether extinguished or eradicated.

Shri Biswas: I never made that point, Sir.

Mr. Chairman: Shrimati Renu Chakravartty was referring to other evils which do not form the subject-matter of this Bill. The hon. Law Minister said that those evils could not be stopped by this Bill. He never stated that the evils regarding dowry could not be stopped.

Shri Biswas: Nor did I say that because legislation cannot stop an evil, legislation should not be resorted to. I never said that.

Shri Dabhi: Sir, my last point.....

Mr. Chairman: "Lastly" has been repeated at least four times.

Shri Dabhi: Sir, I am finishing. Lastly my point is that social legislation would help social reformers and this Bill would also help them. Though social legislation would not eradicate the evil it may help the social worker. Lastly, in talking of this measure.....

Mr. Chairman: Order, order, please. I must request the hon. Member now to conclude. He said at least five times, 'lastly'. Other hon. Members are also anxious to speak.

Shri Dabhi: I would only say one sentence and not add to it. Sir, taking all these facts and circumstances into consideration, I appeal to this hon. House to unanimously support this motion which prohibits this wicked custom which treats human beings as chattels.....

Mr. Chairman: Will the hon. Member kindly conclude at once? He is going on reading something. There must be an end to all this. He has made the last appeal. I take it that he has finished.

Shri Dabhi: I have not added any sentence, Sir.

Mr. Chairman: I will take it that the hon. Member has concluded.

Shrimati Jayashri (Bombay—Suburban): I am glad that after *tapas* for two years this social legislation has been discussed in this House. I do not see the necessity of circulating this Bill for public opinion because I expect that our Members who represent 37 crores of people of India who are here would not have come here to discuss today without giving any thought to this Bill and trying to create public opinion on this Bill.

Sir, we know that there are such evil customs as untouchability. There is enough public opinion created about this evil and even then are we not told that Government think of bringing in legislation to stop this evil? This proves that whenever there are social evils, social customs which work as diseases in our society, they require to be removed by social legislation. Sir, the other argument raised by Shri Nandlal Sharma that we want this Bill to stop giving gifts to our daughters, I think is very wrong. This Bill does not want to stop whatever gift a parent wants to give to the daughters. We know that parents are anxious that their daughters are well settled. But the stigma attaches when this gift becomes a sort of barter, when it becomes, as Shri Dabhi said, *var vikraya* or *kanya vikraya;* then only the stigma attaches to the gifts. In our Hindu Code Bill in clause 93, we had this dowry to be held in trust for the wife. On the basis of this clause we thought that if we bring this legislation we can put before the public a better and clearer view about these gifts or money given, whatever is given to the daughter. I would like to make this clear that we do not want to stop the gift of parents, who want to see that their daughters are well settled. But we know that this dowry becomes an evil when it is a sort of barter.

I would read only a short para. of a letter which we received when we introduced this Bill in March 1953.

> "Dowry has taken yet another toll. According to reports, a shop keeper of Jammu committed suicide by jumping into a well be-

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cause he could not bear the humiliation following his inability to pay the bridegroom the promised dowry....."

We know how parents feel miserable when a daughter is born in their house. In Shakuntala when Kanva Rishi gives away Shakuntala to Dushyanta he speaks this:

अर्थोहि कन्या परकीयमेव
तामद्यसंप्रेष्य परिग्रहितुं
जातो ममायं विषदःप्रकामं
प्रत्यर्पित न्यास इवंतरात्मा ।

As if the girl is considered to be a *nyas*, a debt.

An. Hon. Member: A deposit!

Shri Algu Rai Shastri: It is only a simile.

Shrimati Jayashri: A sort of a thing which can be sold. She has no value of her own; she has no individuality; she is a thing of barter. What I mean to suggest is that our daughters are given away, as Umaji had also said, in Kanyadan as if she is a thing to be sold.

An Hon. Member: Not sold!

Shrimati Jayashri: *Dan*, that is, she is given away.

Though the father's anxiety in getting his daughter married is over does this marriage bring happiness to the daughter? Very few parents think over this question. I know from real life; a few cases were brought to my notice. In a case where the girl was a very good looking girl she was married to a military man who went to his Headquarters in the south taking the girl with him. The bridegroom and the parents were not satisfied with the dowry and so they tried harassing the girl. Even she was locked up. The servants were also asked to insult and spit on the girl. Ultimately the girl became so miserable that one day she ran away from the house. Such stories we find in our society.

Those who have seen the picture "Dahez", which depicts the real picture of our society, know that in the case of that beautiful girl married to a bridegroom, who loved each other, the mother of that boy tried to harass the girl and wanted the boy to marry another girl so that she could also bring dowry and bring money in the house. This is the way we look at our girls.

I would like to read a few words from Gandhiji written in the *Young India* of 1928:

> "A correspondent sends me a newspaper cutting showing that recently in Hyderabad, Sind, the demand for bridegrooms has been increasing at an alarming rate, an employee of the Imperial Telegraph Engineering service having exacted Rs. 20,000 as cash dowry during betrothal, and promises of heavy payments on the wedding day and on special occasions thereafter. Any young man who makes dowry a condition of marriage discredits his education and dishonours womanhood. There are many youth movements in the country. I wish that these movements would deal with questions of this character."

This is what Gandhiji had said. We all want to follow Gandhiji in every other respect but when such questions which affect women come up..... I am sorry that this House takes it in a very indifferent mood.

Some Hon. Members: No, no.

Shrimati Jayashri: I am sorry to say the Government also pays very little respect to the Bills which are brought by private Members, and then we are told that we have to wait for this legislation.

Several Hon. Members *rose*—

Mr. Chairman: I am not calling youngmen who are already married.

They presumably have small daughters if any to marry. I am calling old men who are rather experienced to speak out their mind. Mr. Raghavachari.

Shri R. K. Chaudhury *rose—*

Mr. Chairman: Does Mr. Chaudhury want that I should call out two persons at one time? Mr Raghavachari.

Dr. Jaisoorya (Medak): May I suggest that you will ask unmarried people to speak?

Shri Raghavachari (Penukonda): Almost everybody is anxious to speak on this problem and this is a problem the solution of which does not unfortunately depend upon the kind of activity we are indulging in. Well. I for one would seriously put the question, what is it that has created this problem. It is not that India had not marriages before. It is not that there were not young men and girls in society who lived for generations honourably and well. Then, why is it that this problem of dowry has grown to such an extent that parents and sometimes girls themselves find the need to extinguish themselves, unable to solve this problem? So, this is a new problem that has arisen, and why is it that it has arisen? If you do not go into the causes that have brought about this problem, you cannot find a solution also. There is no use saying: Live with dignity and all that kind of thing to one section or the other. The real problem, to my mind, is that the parents of the girls are very anxious to give the girl to a particular boy or a boy placed in a particular circumstance—as they could see—that will conduce to the happiness of their daughters. So, the solution is not in preventing the man and saying to him, you do not ask anything of a price. It is in preparing your own mind not to accept state of things of this kind to continue that you create a problem to yourselves and offer something to young men.

An Hon. Member: That is commercialism.

Shri Raghavachari: I for one would say this. You want to prevent a man from asking for money along with the girl. Is this a solution? Is the problem of dowry solved? The parent wants to get the girl married. How should he do it? He might go round to every young man to take that girl? Is any young man so approached bound to accept the girl? No. So the parent offers inducements to get the consent of the young men. Therefore, this is a problem that has arisen not because of some other extraneous thing, but because of the way in which the parents have continuously behaved, from generation to generation, offering the girls to a particular individual, and then going and tempting him with all kinds of inducements. Therefore, the real solution must come through the reformation of the ideas of the parents that they must not go about begging, and offering girls to a particular individual of their choice fancifully conceived to be suitably placed. Unfortunately—I am also a parent—the parent's anxiety is to find a suitable place or a good home for the daughter and therefore, he will offer inducements and go on this way. It has ultimately resulted in either the man dictating his terms or the parent offering those things. So any enactment merely for this problem will not cure the thing at all. Therefore, the way out will be through the reformation of the ideas of the parents themselves. It can be done only that way. I for one would say that the solution is not in mere legislation. The solution is more in the reformation of the attitude of society itself, and towards this object, the education of, public opinion is required. That is the only way.

Shri Biswas: It is suggested that a father should not try to see that his daughter is well settled in life?

Shri Raghavachari: Every parent is anxious and it is this anxiety that makes him get into this niche and then blame every other man. You see, if you go on conceiving the solution of this problem by preventive

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legislation of this kind more unmarried people may be found in the country soon. Therefore, I for one feel that a solution to this problem lies in the reformation of the society, of this craze for a particular kind of son-in-law fancied well-placed in society. I have lived in society: I have many relations. But I find that it is only the educated man, it is only the so-called cultured man of the modern times who feels more bothered about this institution.

Shrimati Renu Chakravartty: No, no.

Shri Raghavachari: Thousands of marriages take place every day in villages without this kind of price being paid. It is only when you want an educated man, it is only when you want a graduate, a person fancied well placed in life, that all these problems crop up. In the case of thousands of marriages that take place in villages no price is asked for, no price is paid. It is only one or two per cent. of the parents who are faced with this problem. This problem faces more only those parents whose minds are exercised in finding a son-in-law of their own conception.

Take for instance the Sarda Act. The society found that girls could not be married before a particular age. Society had to awaken to the realities of the situation. Of course, some orthodox parents were at one time mentally worried; but now after legislation has come they are not bothered. It was pointed out that the Sarda Act is a dead letter. In fact, there is no need for the Sarda Act at all; every girl is married on the other side of the age limit prescribed in it. So the real solution does not lie in legislation; the real solution lies in a change in the mental attitude of the parents not to seek after son-in-law of their fancy offering inducements.

श्री जी० एच० देशपांडे (नासिक—मध्य): मैं इस सम्मानीय सभा गृह के सामने जो इस कानून पर बहस हो रही है उस के ऊपर अपने विचार प्रकट करने के लिये खड़ा हूं । मैं श्रीमती उमा नेहरू को धन्यवाद देता हूं कि उन्होंने एक बड़ी भारी सामाजिक समस्या के ऊपर अपनी राय प्रकट करने का मौका इस हाउस को दिया है । समाज में दहेज का एक बड़ा भारी सवाल है । लेकिन मैं नहीं जानता कि इस में स्त्री और पुरुष के झगड़े की बात क्या है, यह मेरी समझ में नहीं आता । जैसे माता चाहती है कि उस की लड़की अच्छे घर में दी जाय वैसे पिता भी चाहता है कि उस की जो लड़की है वह कोई अच्छे बर को दी जाय । दहेज देने में ज्यादा तकलीफ तो पिता को होती है । न कि माता को होती है । माता और पिता दोनों के लिये यह एक बड़ी भारी समस्या है । लेकिन इस कानून से कुछ मदद होगी, समस्या को हल करने के लिये । सब समस्यायें इस से हल नहीं होंगी, क्योंकि माता पिता भी अलग अलग समय में अलग अलग रूप धारण करते हैं । जब कन्या के विवाह का सवाल आता है तो जो माता और पिता कहते हैं कि यह दहेज का सवाल बहुत बुरा है, तो वह उनकी राय बदल जाती है जब कि उनके पुत्र की शादी का समय आ जाता है । फिर उन की राय कुछ अलग रहती है, जैसे कि यात्रा करने के लिये किसी थर्ड क्लास के कम्पार्टमेंट में बैठने के लिये स्टेशन पर खड़े

1 P.M.

होने वाले आदमी होते हैं । जो आदमी अन्दर बैठे होते हैं उन को वह कहते हैं कि बहुत जगह है हमें अन्दर क्यों नहीं आने देते । और जो अन्दर बैठे हुए हैं वे कहते हैं कि कुछ भी जगह नहीं है, आगे देखो । उस डिब्बे में आदमी कोई घुस जाता है और दूसरे स्टेशन पर जब गाड़ी खड़ी होती है तो वह अपनी राय चेंज कर देता

है। जो स्टेशन पर खड़े हुए मालूम होते हैं, उन को वह कहता है कि आगे बहुत जगह है, इस डिब्बे में बहुत भीड़ है, आगे के डिब्बे में घुसो। तो इस तरह पांच मिनट में उस की राय बदल जाती है। वह भाई जब स्टेशन पर खड़ा होता है और देखता है कि उधर बहुत आदमी हैं तो कहता है कि बहुत जगह है, लेकिन जब वह भी अन्दर बैठ जाता है और दूसरा स्टेशन आता है तो औरों की तकलीफ़ देख कर भी, उन को खड़ा देख कर भी अपनी राय बदल देता है। तो इस तरह वही माता और पिता जो कन्या के विवाह का समय आने पर दहेज के खिलाफ़ बातें करते हैं, वही जब उन के पुत्र के विवाह का समय आता है तो उस के खिलाफ नहीं बोलते।

तो इस में एक बड़ी भारी बुराई भरी हुई होती है। इस बुराई को हटाने के लिये क़ानून की मदद तो जरूर लेनी चाहिये लेकिन क़ानून से सब कुछ हासिल नहीं होगा। मेरे एक दोस्त ने कहा कि शारदा क़ानून से क्या हुआ? मैं जानता हूं कि शारदा क़ानून से देश को लाभ हुआ है। शारदा क़ानून जब बना तब देश में क्या परिस्थिति थी और अब क्या परिस्थिति है। उस में जो तबदीलियां और बदल हुए हैं वे बदल शारदा क़ानून से हुए है। न केवल शारदा क़ानून से हुए हैं बल्कि उस के साथ लोकमत भी हो गया है। उस में शारदा क़ानून से मदद मिली, इस में मुझे कोई सन्देह नहीं है।

इसी तरह मैं यह मानता हूं कि इस क़ानून से भी बड़ी भारी मदद होने वाली है। वह इस तरह कि जब अच्छे अच्छे नौजवान और पढ़े लिखे लोगों को मालूम होगा कि यह दहेज लेना क़ानून के खिलाफ़ है तो जो लड़की बिल्कुल ग़रीब घराने की होगी, जो अच्छी है, उस के साथ वह विवाह करने को तैयार होंगे। जब लड़के को मालूम हो जायगा कि छिपी रीति से डाउरी ली जायगी तो उसे जेलखाने जाना पड़ेगा, तो वह ग़रीब लड़की के साथ विवाह करने को तैयार होगा अगर वह अच्छी लड़की है, चरित्रवान है और भली है। उस को कोई ग़रीब घराने की अच्छी लड़की मिलेगी तो वह शादी कर लेगा।

फिर दूसरे जो सोशियल बेरिअर्स हैं उन को तोड़ने में भी इस से मदद मिलने वाली है। इसलिये मुझे तो क़ानून से लाभ ही होने वाला है, हानि नहीं, ऐसा लगता है। अब समय आ गया है कि जो सामाजिक समस्यायें हैं उन के ऊपर कुछ न कुछ क़ानून होना चाहिये। एक मुसीबत जो मालूम होती है वह यह है कि सारे भारत में ऐसे छोटे छोटे समाज हैं, कि जिन में लड़कियां कम हैं और कुछ ऐसे हैं कि जिन में लड़के बहुत कम हैं। पबलिक ओपिनियन, लोकमत ऐसा जागृत होना चाहिये कि उन को एसे दूसरे समाज में विवाह करने में दिक्कत न हो। इस तरह यह समस्या भी हल हो जायगी। जिस समाज में ऐसा हो कि लड़कियां बहुत कम हों तो दूसरे समाज के साथ उन की शादी हो जानी चाहिय। फिर इस तरह से जो वह पुराने आदमी हैं, हमारे यहां तो जैसे रामराज्य परिषद् के एक ही मम्बर हैं.....

श्री नन्द लाल शर्मा : चार हैं।

श्री जी० एच० देशपांडे : उन के दल में भी फिर इसका असर हो जायगा। समाज में यह जो बन्धन है कि एक ही समाज में, एक ही विशेष जाति में विवाह करना चाहिये, यह जल्दी से जल्दी टूटना चाहिये।

[श्री जी० एच० देशपांडे]

इस बिल से यह समस्या भी हल होने वाली है।

इसलिये जो बिल सम्माननीय सभा गृह के सामने आया है, उसका मैं पूरी रीति से समर्थन करता हूं। मैं नहीं मानता कि इस बिल से ही सब समस्या हल होंगी, लेकिन समस्या हल होने के लिये इस से कुछ न कुछ मदद जरुर होगी, इस लिये मैं इस बिल का समर्थन करता हूं।

डा० राम सुभग सिंह (शाहबाद—दक्षिण): अभी मुझे बहुत से बजर्गों की बातें सुनने का मौका मिला।

Mr. Chairman: Order, order. There is so much noise in the House that the hon. Member is not audible. I would request the hon. Members to keep silent.

Shri Achuthan (Crangannur): I request that priority may be given to those Members who are actually confronted with this problem now.

Mr. Chairman: I don't follow.

Shri Nambiar: He means that bachelors must be allowed to speak first.

Shri R. K. Chaudhury: I wish to inform you, Sir, that I want to oppose this Bill.

Mr. Chairman: I understand that very many Members are anxious to speak—some in support and others against. I should like to have the opinion of the House whether they want to continue the debate.

Sardar A. S. Saigal (Bilaspur): Nobody is opposing, Sir.

Shri R. K. Chaudhury: I have been saying 'I am opposing'.

Mr. Chairman: Since several Members are anxious to take part, the debate will not be finished today.

डा० राम सुभग सिंह: रोहिणी बाबू ने कहा कि वह इस बिल का विरोध करना चाहते ह, लेकिन म समझता हूं कि इस बिल के अन्दर की उन तमाम चीजों का समर्थन करना चाहिए जिनसे इस वक्त की प्रचलित बुराइयां दूर हों। उन सब बुराइयों की जड़ हम लोगों की वर्त्तमान आर्थिक व्यवस्था में है आर्थिक व्यवस्था में जो कुछ संशोधन करने की बातें आती हैं, वह पूरे दिल और ताक़त से नहीं आती। फलस्वरूप हमारी सामाजिक कुरीतियां और ज्यादा ताक़तवर होती जाती हैं। अभी कुछ महिला सदस्यों न कहा कि सभी बुराइयों की जड़ पुरुष हैं, लेकिन मैं इससे पूर्णतया सहमत नहीं! मैं चाहता हूं कि यह समाज बिल्कुल तबदील कर दिया जाय।

Mr. Chairman: Order, order. There is so much noise. May I ask hon. Members to go outside to the Lobby if they want to talk. We should hear the debate.

डा० राम सुभग सिंह: कुछ भाइयों तथा हमारी बहिनों ने भी कहा कि विवाह में जो दहेज प्रथा चलती है, उसका मूल कारण पुरुष समाज ही है। अभी श्री राघवचारी ने जो बात कही, वह बहुत मार्के की बात है। उसके लिए मैं उनका हृदय से समर्थन करता हूं। उन्होंने एक अच्छी चीज निकाल करके इस भवन के सामने रखी।

हमको देखना चाहिये कि किस कारण से आज हम लोगों को जिहालत में पड़ना पड़ रहा है। श्री नंदलाल शर्मा ने बतलाया कि हम लोगों के धार्मिक रस्म रिवाज ऐसे रहे हैं कि जिन के रहते कन्यादान करना जरूरी होता है, लेकिन मैं समझता हूं कि उन रीति रिवाजों में समय के अनुसार संशोधन भी किये जाने चाहिएं। साथ ही मैं उन महिला सदस्याओं का भी तरफदार नहीं हूं? जो अपने को बिलकुल

अलग कर लेती हैं और कहती हैं कि सारा दोष पुरुषों का है। मैं उनसे कहूंगा कि किसी भी समाज में चलकर देखिये जहां तिलक और दहेज की प्रथा प्रचलित है, वहा आप पायेंगे कि पुरुषों की अपेक्षा महिलाओं का उस प्रथा के चालू रखने में दोष है। हम अपने यहां देखते हैं कि बाप एक दफा तिलक और दहेज मांगे या न मांगें, लेकिन लड़के की मां जरूर तिलक और दहेज चाहेगी। इसी तरह से लड़की की मां का भी सवाल है, अगर कोई उससे कहे कि वह अपनी लड़की गरीब घर में ब्याह दे तो वह हरगिज राजी न होगी, लड़की की मां चाहती है कि उसकी लड़की अमीर और बड़े घर में जाय, सुख चैन में रहे और मां तो चाहती है कि उसकी लड़की की शादी किसी बहुत बड़े नेता से हो? जैसा कि दिल्ली कर्नाल की महिला सदस्या ने कहा कि लोगों को ऐसी व्यवस्था चालू करनी चाहिए जिससे लड़की के मां बाप को रोना मत पड़े। मैं चाहूंगा कि वह जरूर इस चीज को चालू करें और ऐसी कोई हरकत न करें जिससे किसी भी लड़की के मां बाप को रोना पड़े।

मैं मानता हूं कि आज स्त्री जाति की अवस्था संतोषजनक नहीं है और मैं बहुत सी ऐसी बहुओं को जानता हूं जिनको उनकी सासें घर से निकाल चुकी हैं, उनको मारती पीटती हैं, और अपनी बहुओं को हर तरह से जलील करती हैं। यह सब केवल इसलिए किया जाता है कि बहू के घर से ज्यादा पुरस्कार और दहेज नहीं आता, इसलिए मैं चाहता हूं कि महिला सदस्यायें जितनी यहां पर हैं, वह इस बुराई का सेहरा ज्यादा से ज्यादा अपने सिर पर ओढ़ें, क्योंकि उनके रहते हुए यह ज्यादा बुराई होती है, और उलटे वे सभी दोष पुरुषों पर मढ़ती हैं।

Shri Tek Chand (Ambala-Simla): Is not the hon. Member unchivalrous?

Dr. Ram Subhag Singh: I think the hon. Mr. Tek Chand should learn a lesson in chivalry before asking "is not the hon. Member unchivalrous."

The Minister of Home Affairs and States (Dr. Katju): May I ask one question? What does the hon. Member mean by *vice versa*? There is the phrase *vice versa* in the Bill. What about that? Will you please express your opinion?

Shri A. M. Thomas (Ernakulam): We are not getting a chance.

डा० राम सुभग सिंह : He will explain that.

अब मैं इस बिल पर आता हूं और मैं चाहता हूं कि समाज में यह जो कुरीति फैली हुई है उसके लिए स्त्री, पुरुष दोनों प्रयत्न करें और समाज के हाथ मजबूत करें और अगर समाज उनके रास्ते में बाधक हो तो वह समाज को भी छोड़ दें। वे इस बात का प्रण कर लें कि अपनी लड़की की शादी में दहेज ज्यादा नहीं देंगे। साथ ही लड़के के मां बाप को लड़के की शादी में दहेज नहीं मांगना चाहिए और अच्छे २ कपड़े और गहने नहीं मांगने चाहिएं।

हम लोगोंको विवाह प्रथा में एक पति और एक पत्नी का रिवाज बहुत अच्छा है यह आदर्श रिवाज है और इस पर चलकर हम लोगों को ज्यादा से ज्यादा आगे बढ़ने की कोशिश करनी चाहिए, लेकिन साथ ही साथ हम लोगों को आज जो हमारी आर्थिक स्थिति है, उस पर भी कुठाराघात करना चाहिए, क्योंकि जब तक हमारी आर्थिक स्थिति दयनीय बनी रहती है, तब तक हम अपने उद्देश्य में सफल नहीं हो सकते।

[डा० राम सुभग सिंह]

आर्थिक असमानता को दूर करने के हेतु स्टेट ड्यूटी बिल लाया गया है। मैं मानता हूं कि किसी हद तक हम इसके द्वारा आर्थिक असमानता को दूर करने में सफल, होंगे, लेकिन इसके लिए सरकार को चाहिए कि हम लोगों की जितनी सम्पत्ति है उसको नेशनलाइज कर ले, जब्त कर लें और सप्लाई और डिमांड के अनुसार अपना काम करे ताकि अस्ली रामराज यहां पर आ सके।

इस के साथ साथ कुछ लोगों ने और श्रीमती रेणु चक्रवर्ती ने भी कहा कि इस कुप्रथा और असमानता के कारण बहुत सी लड़कियां कैम्पों में हैं जिनकी १८, २० और ३० वर्ष की उम्र हो गयी है और उनकी शादी नहीं हो पाई है, उनका कहना ठीक है, लेकिन मैं उनको बतलाऊं कि मैंने ऐसे बहुत से लड़कों को देखा है कि जिनकी ४० और ५० साल की उम्र हो गयी है, और उनकी शादी अभी तक नहीं हुई है।

मैं बहुत से दृष्टान्त दे सकता हूं जहां लड़कों की शादी ग़रीबी के कारण नहीं हो पाई, क्योंकि हर लड़की वाले की यही चेष्टा रहती है कि वह अपनी लड़की की शादी अच्छे और ऐसे लड़के से करे जिसके पास धन हो और जो किसी बड़े सेठ का लड़का हो। नतीजा यह होता है कि जो बेचारे ग़रीब घर के लड़के होते हैं वे बिना शादी के रह जाते हैं।

आज स्त्री पुरूष के नारे तो दिन रात लगाये जाते हैं लेकिन जब उनको कार्यरूप में परिणत करने का वक्त आता है, तो लोग पीछे हट जाते हैं,। जो लोग ऐसे नारे लगाते हैं वही पढ़ी लिखी लड़कियों की शादी किसी किसान के लड़के के साथ करें, तो हम जानें। मैं आपको बतलाऊं कि हमारे एक दो नहीं, पूरे गांव के गांव ऐसे हैं जहां के लोगों की शादी नहीं हुइ है। आज समाज में पढ़े लिखे लोगों का बोल बाला है, वह समाज के ठेकेदार हो जाते हैं और अशिक्षित लोग बहुत दयनीय दशा में हैं, हमें सारी स्थिति पर ईमानदारी से सोचना होगा। केवल नारे मात्र लगाने से हमारा काम बनने वाला नहीं है। केवल नारा लगाने मात्र से देश का नक्शा बदलने वाला नहीं है। नारे देने वाले कितने आये और कितने आते जायेंगे और जाते जायेंगे और हमारी स्थिति जब तक नहीं सुधरेगी जब तक हम स्त्री पुरूष दोनों इस में न जुट जायें और पुरुष जो उनमें दोष हैं उनको निकालें और औरतों में जो दोष हैं, उनको औरतें निकालें, ऐसा जब हम दोनों करेंगे, तभी हम लोगों की स्थिति दुरुस्त होगी।

Mr. Chairman: Shri Muniswamy.

Dr. Katju: The time is over, Sir.

Mr. Chairman: We will sit five minutes more; five minutes out of the time allotted to private Members' business were taken on the Estate Duty Bill.

Shri Muniswamy (Tindivanum): I oppose those who oppose this Bill. I shall confine my remarks only to a few points.

I am surprised to see how some hon. Members of this House have quoted *Vedas* for opposing this Bill My hon. friend Mr. Nandlal Sharma has quoted the *Vedas*. (*Some Hon. Members*: No, no.) Sir, it is in the *Vedas*, and I may like to quote one thing: "If a *Sudra* reads the *Vedas*, you must melt iron and put it in his ears and mouth." Is he going to follow the *Vedas* now? If this is followed.....

Shri Dhulekar: It is not written in the *Vedas*.

Shri Muniswamy: Then in the *Manu Smriti*. It was the *Manu Smriti* which was quoted often when the Estate Duty Bill was here discussed.

Mr. Chairman: The *Manu Smriti* is not the *Veda*.

Shri Muniswamy: It may not be the *Veda*, but *Manu Smriti* and all this come under that category. I may point out incidentally that you have got the *Vedas*, *Srutis* and the *Smritis*. The *Srutis* are those that are directly heard from God. All these things have been taken into consideration when the Hindu Code Bill was drafted. And I may quote the words of Justice Nelson. He said: "The Hindu Law was drafted by those English people who never knew Sanskrit, with the help of those Sanskrit Pandits who never knew English." It is in the book written by Justice Nelson *My Experiences in the Indian High Courts*. Therefore, I may quote it.

Why should they unnecessarily bring in all those *Vedas* and quote them to oppose a Bill which will place us also in the eyes of other countries as civilised persons. It is called *Vara Dakshina* in our place, in the South. It is more predominent among the Brahmin community and not among the non-Brahmins.

Shri Nambiar: Less.

Shri Muniswamy: It is now gradually spreading like the locust menace to all the other communities also. The words *Vara Dakshina* used to indicate something which was given as a gift to the bridegroom who comes to the house. It is given to the boy who is coming as the husband. But it is bringing down the dignity of the boy who comes as the husband to give something and call it by the name "dowry".

I support this Bill because in the eyes of the world we must also appear as a civilised country, and I am pained to see some of my friends opposing it without any meaning.

I do not understand one thing in the Bill which I wish to point out. There is a clause which says that those who pay dowry or who receive dowry should be imprisoned for three months. I oppose this. They may be fined. Suppose a father wants to see his son married, if soon after the marriage the fellow is put in jail. I think nobody will come forward to celebrate the marriage of his son.

Shrimati Renu Chakravartty: Send the wife also together.

Shri Nambiar: The wife also should be imprisoned, both together.

Shri Muniswamy: From this point of view I support the Bill and I find no meaning in opposing the Bill. I stop with this point.

Mr. Chairman: Is Mr. R. K. Chaudhury very anxious to speak? He may speak provided he finishes within the allotted time of five minutes.

Shri R. K. Chaudhury: I cannot finish.

Your decision, Sir, to allow the women Members of this House much greater latitude is certainly admirable.

Some Hon. Members: No, Sir.

Shri R. K. Chaudhury: I say admirable from a practical point of view. I have seen in my own domestic life that if you are found fault with, if you are taken to task, by some women members, if you allow them the fullest scope of talking, they will quieten down after some time and later on they will admit that they were in the wrong. I am hoping that if I live long, I will myself see a demonstration of this in this House.

Mr. Chairman: The hon. Member should speak on the Bill.

Shri R. K. Chaudhury: I was saying, Sir, I had welcomed your decision on this ground because it enables us to know the full case of the women Members so far as their support to this Bill was concerned, but I oppose it. I have the temerity to oppose it. Today I think that man is the boldest who does not fear his wife.

An Hon. Member: How many are there?

Shri R. K. Chaudhury: There are not many, of course.

I base this on three main grounds. First of all, I consider that it is unnecessary. It will defeat its own object, namely, that this Bill will not prevent the acceptance of dowry, but will rather prevent marriage for a long time.....

Shri Nand Lal Sharma: It will introduce black-marketing.

Shri R. K. Chaudhury: Certainly, it is likely to introduce black-marketing. I ask, Sir, of what utility will it be? Who is going to prove the contract? The Bill has been entirely misconceived. It will be difficult to punish or it will be futile to punish or it will be against the wishes of the members of the family concerned to see the man punished. It would be much better if it would be able to prevent the acceptance of dowry. Whenever it has come to the knowledge of the persons in authority that dowry is going to be paid in a particular marriage or that excessive dowry has been demanded by some party, then the law should be put in motion and that should be stopped. Because, after the marriage takes place, after the dowry is paid, it will be very difficult to prove a contract of this nature. What use it would be to have a legislation of this kind, I do not at all see.

I should like to say, Sir, that I am not taking it in a spirit of levity. I think, Sir, it will be injurious to society to have a legislation of this kind

An Hon. Member: Injurious?

Shri R. K. Chaudhury: Yes. You have education. Why don't you introduce courtship on a much larger scale than it is at present?

Sardar A. S. Saigal: Are you in favour of it?

Shri R. K. Chaudhury: Yes. I am in favour of courtship because that will save me payment of dowry. Have courtship. If you have courtship, go to the court for special marriage; finished; all expenditure and burden is saved. Why are you having this measure which will only alienate the feelings of the people? Those who are willing to pay, will pay.

Sir, there are other points which I have to make in support of my opposition.

Mr. Chairman: The hon. Member has finished his speech?

Shri R. K. Chaudhury: I want to continue, if you will allow me. This particular point of view has not been put before the House,

Shri Nand Lal Sharma: He will continue.

Mr. Chairman: The hon. Member may continue on the next day.

The House then adjourned till Four of the Clock.

The House reassembled at Four of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair*]

ESTATE DUTY BILL—*contd.*

Mr. Deputy-Speaker: Clause 62 was over. If any amendments have been tabled for clause 61, we can take them up later on. Let us now proceed to clause 63.

Clause 63.—(*Case to be heard by Benches of High Courts etc.*)

Shri N. L. Joshi (Indore): I beg to move:

(i) In page 31, line 6, *for* "two" *substitute* "three".

(ii) In page 31, *omit* lines 9 to 14.

By my first amendment, I seek to substitute "three" in the place of "two" and consequently, by my second amendment, I seek to delete the proviso to sub-clause (1). The reason is quite obvious. If there are three Judges, the

number will be odd, and if the number is odd, then there can be a decision of the Bench by a majority, and there will be no necessity to refer the case, in a case of difference of opinion, to a third Judge. If we can avoid this, we should do this. This will save the time and energy of the court, and also of the litigant public.

Shri C. D. Deshmukh: We feel that what we have provided is sufficient. Really, only in very rare cases will the subject matter be important enough to be heard by three Judges. It may be heard by one Judge even.

Mr. Deputy-Speaker: The words are "not less than two",—that means two are necessary. The argument of the Finance Minister will be all right if the number two were not there, but "not less than two" means that there must of necessity be two Judges.

Shri C. D. Deshmukh: I understand the point. But I say that it is not in every case that you will want to have a reference to another bench of judges. When you say "not less than two", even one Judge may hear it.

Mr. Deputy-Speaker: One Judge cannot hear. Two Judges are necessary. Not less than two does not mean two only; it may be three, in which case there is a majority of two against one in case of difference of opinion. But if there are only two, and they do not agree, then the matter is to be referred to a third Judge.

Shri C. D. Deshmukh: My point is that in many cases two Judges will be able to decide this matter.

Mr. Deputy-Speaker: If they agree and decide. If they do not agree?

Shri C. D. Deshmukh: Then it may be referred to a third Judge.

Mr. Deputy-Speaker: So the Finance Minister wants to avoid that contingency.

Shri C. D. Deshmukh: We are having excessive caution from the beginning.

Shri Pataskar: Clause 62 relates to statement of case by the Board to High Court. In certain cases, questions of law may arise and the Board may state its case to the High Court. I have tabled an amendment to clause 76. Clause 76 reads like this:

> "76. *Jurisdiction of courts barred save as expressly provided.*— Save as provided in this Act, nothing done or in good faith purporting to be done by any estate duty authority under this Act shall be called in question in any court."

I have given notice of an amendment:

> "Provided that the High Court, having jurisdiction over the area in which the property of the deceased is situated, may call for the record of any case determined by the Board under section 61, and if the Board appears.....etc."

It is exactly like section 115 of the Civil Procedure Code. I think I can move it at that stage.

Mr. Deputy-Speaker: That is another matter—jurisdiction of courts barred. We will take it up when we come to that.

The amendments are not accepted. Should I put them to vote?

Shri N. L. Joshi: I do not press, Sir.

Mr. Deputy-Speaker: The question is:

> "That clause 63 stand part of the Bill."

The motion was adopted.

Clause 63 was added to the Bill.

Clause 64 was added to the Bill.

Clause 65.—(*Certificate of payment etc.*)

Shri G. D. Somani (Nagaur-pali): I beg to move:

In page 32, line 6, *for* "full duty payable in respect of the property" *substitute* "duty in proportion to the asset inherited".

Shri K. P. Gounder (Erode): Sir, I have given notice of an amendment this morning. It is only a drafting change. I hope the hon. Minister will accept it. I want to add the words 'or the Supreme Court'.

Mr. Deputy-Speaker: In what part of clause 65 do you want this? Where is the Supreme Court in this?

Shri K. P. Gounder: It is not there; I want to add it after 'High Court'.

Shri C. D. Deshmukh: Under clause 62 the Supreme Court is also given jurisdiction.

Shri S. S. More: In sub-clause (7) of clause 62, Sir. It should be brought in accord with that.

Shri C. D. Deshmukh: That is to say the decision on matter of valuation may go up to the Supreme Court also. They may also make a different valuation.

Shri Raghavachari (Penukonda): The word 'High' may be omitted instead of adding the words 'Supreme Court'.

The Deputy Minister of Finance (Shri M. C. Shah): Clause 62 (7) says:

> "The High Court or the Supreme Court upon hearing any such case shall decide the question of law..."

Therefore, here also it ought to be so.

Mr. Deputy-Speaker: What Mr. Raghavachari says is, you need not refer to each and every one of these courts; you may omit the word 'High'.

Shri S. S. More: Why should it be only when enhanced by the High Court? Under clause 62(6) questions of law also 'the Court may require the Board.....'. Then why talk only of enhancement?

Mr. Deputy-Speaker: It is only in the case of enhancement the question of two months comes in.

Shri M. C. Shah: The word 'High' may be omitted, Sir; it will be all right.

Mr. Deputy-Speaker: The hon. Members must stand in their seats and talk. They cannot go on talking from one end of the Bench to the other end. There must be some decorum.

Shri M. C. Shah: The word 'High' may be omitted, Sir.

Mr. Deputy-Speaker: Is it the wish of the House that the word 'High' may be omitted?

Hon. Members: Yes.

Shri G. D. Somani: My submission in this connection is that several amendments were tabled by me and several other hon. Members about waiving the time-limit of six months that has been imposed even for charitable purposes under the previous clause. Appeals were made to the hon. Finance Minister in view of the difficulties that might be caused by this time-limit that this time restriction should be withdrawn. But, Sir, the hon. Finance Minister did not see his way to accept those amendments. I am now trying to draw his attention to the hardship that may be caused to the successors of the deceased who may be called upon to pay the estate duty not only upon the assets which they inherit but also upon any amount or property which the deceased might have contributed for any charitable purpose. Sir, the purpose of my amendment is that so far as liability arising from these gifts is concerned, the charitable institution or the trust concerned should alone be liable to meet this liability and the successors of the deceased should not be called upon to pay any difference between the duty which they may have to pay on the actual assets which they inherit and the additional amount on property which the deceased may have contributed within six months previous to his death. It is to mitigate this hardship that I put that the hon. the Finance Minister will be pleased to find a way out so that the successor should not be called upon to meet the liability of the property or the amount which may have gone to the charitable institutions. I,

therefore, suggest that any liability that may arise by these contributions should be borne by the trust or the charitable institutions which will be enjoying the benefit of the contributions and the successors of the deceased should not at all be liable for any such duties.

Shri C. D. Deshmukh: Sir, I have already observed in connection with previous clauses that one must make a difference in law and in practice. In law we say that the accountable person will be liable to pay the full duty but administratively we shall try to secure that only that part of the duty is paid by him which is not greater than the value of the assets received by him. So in another form we are going over the same ground. If a person who does not deliver an account is called upon to accept the account prepared by the Controller and if he is to pay only in proportion to the asset received by him, then there is a fear of every accountable person waiting till the Controller asks him to accept an account, whereas we have already provided in Clause 51 that "they shall be accountable for the whole of the estate duty on the property passing". Therefore, it seems to me that it is necessary to put this here although, as I said, it is subject to the assurance that in practice we are trying to secure to the extent to which assets are received by the accountable person.

Mr. Deputy-Speaker: I find that the word "High" has to be omitted in sub-clauses (1) and (2) of clause 65.

Shri C. D. Deshmukh: A reference lies to the High Court or the Supreme Court in various sub-clauses of clause 62. It must be either High Court or Supreme Court. Therefore, the word "Court" would do.

Mr. Deputy-Speaker: "High" is to be omitted both from sub-clause (1) and sub-clause (2) of clause 65.

The question is:

In page 31, lines 38 and 44, *omit* "High".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 32, line 6, *for* "full duty payable in respect of the property" *substitute* "duty in proportion to the asset inherited".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"Clause 65, as amended, stand part of the Bill."

The motion was adopted.

Clause 65, as amended, was added to the Bill.

Clauses 66 to 69 were added to the Bill.

Clause 70 :—(*Forms*).

Shri Tulsidas: I beg to move:

In page 33, lines 25 to 27, *omit* "and any person who wilfully fails to comply with the provisions of this section shall be liable to the penalty mentioned in section 54".

This is an amendment to clause 70, by which I want to remove the words mentioned above. Section 54 is only meant for filling in the forms. This Clause provides that a certain form should be followed and a statement should be delivered, both by production of books and documents. Failure to do so would be punishable with penalty of Rs. 1,000 or double the amount of estate duty as the Controller may direct. If a person does not observe the prescribed form or does not produce the required evidence his application is liable to be dismissed. Therefore, there is no reason why penalty of this kind should also be levied.

Further the expression "any person" is very wide. It is no doubt intended to apply to the person who makes an application or fails to deliver a statement and accounts but the Controller may prescribe that any other person

[Shri Tulsidas]

may be required to produce his books and documents. If such a person, who may be a stranger to the estate, fails to comply with the directions, there is no reason why he should be penalised for double the amount. That is the point that I have to make. This is merely a clause which only prescribes the question of filling in the forms. I feel that this is rather too hard. There is no reason why a penalty of this nature should be imposed upon him. He may be completely a stranger to the estate. He may not be able to know the forms that he has to fill in.

Shri S. S. More: But the word "wilfully" is there.

Shri Tulsidas: What is "wilfully"? In this particular clause I can understand a person not doing something but here there is nothing like that. What is the question of "wilfully" here? This is rather a difficult clause and I feel that this amendment should be accepted by the hon. the Finance Minister.

Shri Gadgil: Mere "non-compliance" is not penal. Wilful non-compliance is penal.

Shri Tulsidas: But what is "wilful"?

Mr. Deputy-Speaker: The hon. Member means that there may be wilful inability when one says deliberately he is unable to go and, therefore, he would not go.

Shri C. D. Deshmukh: He fails owing to reasons beyond his control. You cannot say that it is wilful.

Pandit Thakur Das Bhargava: Every person is presumed to know the law. Therefore, if any person does not comply it can be argued he is not wilfully complying. Inability to comply is quite different. When he knows the rule wilful compliance and non-compliance may in some cases become one and the same thing. But the fact "if a person does not put anything in duplicate" is also regarded as an offence. It is something unheard of in legislation. If he does not put it in the prescribed form, it is again a serious offence. "What is in a form?", a visionary poet of England once cried. Of course, as a matter of fact, if any of his statements, accounts, etc., are not in the prescribed form, then, technically, the person is guilty. But it may be said that the Controllers may not be so harsh. But, if they choose to be harsh, what will happen? The Controllers will be of the rank of Income-tax Officers. We know what the Income-tax Officers are doing. A provision of this sort may be abused by dishonest Income-tax Officers and even by honest officers, if they are so minded to put pressure upon assessees. The provision may be abused and every person may make himself liable to the penalty without being motivated by anything which in penal law is called *mens rea*, which is the real basis of penal offences. In all offences, there is some criminal intention. Here is a mere compliance with a prescribed form, the non-compliance of which is made penal. I think it is too wantonly and unnecessarily hard. I may respectfully ask the hon. Finance Minister to consider whether the last two lines could be taken away. I can understand if a person is asked to do a particular thing to bring a certain document and if he does not bring that document, he may be liable to pay a penalty. There are many penalties provided in the law, if he does not obey the dictates of the officer. But the mere fact that the form is not filled in the prescribed manner and the failure to do so should expose him to a penalty is certainly one which we should consider twice before putting it on the statute book.

Shri C. D. Deshmukh: I do not know whether any other Member wishes to speak—so that I could reply at the end.

Mr. Deputy-Speaker: No.

Pandit C. N. Malviya (Raisen): Sir, I do not agree with the omission of these words.

Shri C. D. Deshmukh: He opposes the words.

Mr. Deputy-Speaker: No. The hon. Member wants that a lesser punishment may be imposed.

Pandit C. N. Malviya: It is perfectly all right. I oppose the amendment.

Shri C. D. Deshmukh: He opposes the amendment. What I say is that hon. Members who have supported this amendment have picked out one particular portion—'in duplicate'—as if the whole clause was in regard to the submission of forms in duplicate. Now, that is not what we are dealing with.

Pandit Thakur Das Bhargava: It is there.

Shri C. D. Deshmukh: I do not deny. It is there. If it was not there, the hon. Member would not have been able to pick it up. In order to embellish an argument, he has taken out one argument to reduce this *ad absurdum*. This clause relates to affidavits, accounts, statements and forms. It prescribes not only "in duplicate"; it says, "any person who wilfully fails to comply with the provisions of this Section....." etc. What are the provisions here? They are to be in the prescribed form. They shall be in duplicate. They have to be delivered and verified on oath. They have to be supported by the production of books and documents in the manner prescribed.

Mr. Deputy-Speaker: Such particulars as may be prescribed. Line three requires that particulars, as may be prescribed, should be given.

Shri C. D. Deshmukh: Therefore, there may be a very large number of very substantive things which are required to be done and which fail to be done. This is comparable to the provision in the Indian Penal Code. In the Penal Code, you define an offence. But there is another clause which says that if technically something amounts to offence but if it is so trifling, then, it shall not be regarded as an offence. If the hon. Member goes into the clause taking out the "duplicate forms", he will find that the penalty is imposed only in such cases when he "fails to comply with the provisions". Merely because he objects to that particular thing, he says the whole clause is bad, and therefore, the penalty should be omitted. The justification urged for that is that a man places himself or is likely to place himself at a disadvantage, if he fails to comply with this provision. Without a very careful examination of the whole of this Act, it is not possible to say that only if he fails to do something he will place himself at a disadvantage. Apart from the penalty, from what I know, he will possibly place himself in an advantage. It is possible that he will escape some part of the duty which otherwise would have been assessed on his property, or the corpus of the property might have been held to be much larger than what it is. Therefore, we are dealing with very important matters, and there is no justification for imagining that failure will be met with a punishing act. A man will just pay for his own folly: but he might stand to gain.

Then, one ought to make reference to clause 54 which we have passed; there also it is said that penalty is equal to double the amount—"shall be liable to pay a penalty of one thousand rupees or a sum equal to double the amount of estate duty." The hon. Member who suggested this amendment has carefully avoided making any reference to the proviso which says that the Controller may reduce the penalty in any particular case. Further, Sir, if there should be such an atrocious case where the wilfulness is a marginal one, where only the double forms have been missed out and the Controller is officially informed and he says: "I now charge you the full penalty," then it would be open to the aggrieved person to go up in appeal, and I am sure that such appeals may not recur because the same thing will happen to the Controller. I think one ought to look at this in its proper perspective. No sufficient reason has been adduced for the deletion of this penalty.

An Hon. Member: Is there anything from English law on this point?

Shri N. C. Chatterjee: It is exactly a copy from the English law. Sub-sec-

[Shri N. C. Chatterjee]

tion (14) of Section 8 of the English Finance Act, 1894, says:

"All affidavits, accounts, certificates, statements, and forms used for the purpose of this Part of this Act shall be in such form, and contain such particulars as may be prescribed, and if so required by the Commissioners shall be in duplicate, and accounts and statements shall be delivered and verified on oath and by production of books and documents in the manner prescribed, and any person who wilfully fails to comply with the provisions of this enactment shall be liable to the penalty above in this section mentioned."

Mr. Deputy-Speaker: Now, that is conclusive.

Shri C. D. Deshmukh: In other words, it requires two forms—not one form.

Mr. Deputy-Speaker: The question is:

In page 33, lines 25 to 27, *omit*:

"and any person who wilfully fails to comply with the provisions of this section shall be liable to the penalty mentioned in section 54."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 70 stand part of the Bill."

The motion was adopted.

Clause 70 was added to the Bill.

Clause 71.— (*Recovery of duty etc.*)

Shri T.S.A. Chettiar (Tiruppur): Sir, I have not given any amendment to clause 71, but I would like to raise a point. Under the procedure for recovery of arrears, recovery could be made by various processes. It can be by arrest and imprisonment of the defaulter. I am reading from the Bombay Land Revenue Code, 1879. Recovery may be made:

"(a) by serving a written notice of demand on the defaulter under section 152; (b) by forfeiture of the occupancy or alienated holding in respect of which the arrear is due under section 153; (c) by distraint and sale of the defaulter's moveable property under section 154; (d) by sale of the defaulter's immovable property under section 155; and",

as I said,—

"(e) by arrest and imprisonment of the defaulter under sections 157 and 158."

I would like to know, Sir, what the Government wants. What the Government wants, I think, is to get the tax out of the property of the deceased. I do not think it is the intention of the Government to arrest the man, because the tax is to be paid, virtually, by one who is dead, and the tax is to be collected from the property which he has left. I would like to know whether they have examined the words in this clause. The clause says: "Any estate duty.....be recovered from the person liable thereto as if it were an arrear of land revenue by any Collector in any State." I have read from the Bombay Land Revenue Code in this connection. The clause may be made clear to me.

Mr. Deputy-Speaker: So far as the Civil Procedure Code is concerned, I think for the recovery of debts from legal representatives, they are not personally liable for imprisonment, except in cases where they are not able to account for the money that has been received by them. That is the position. If it is the intention of the Government to make it more stringent.....

Shri S. S. More: I would ask one question. "As if it were an arrear of land revenue"—that is what the clause says.

Have they examined the different provisions for the recovery of land revenue in the States? Are they all uni-

form? Otherwise, this will lead to discrimination.

Mr. Deputy-Speaker: This is under Land Revenue Act.

Shri S. S. More: But is it applicable to the Bombay State?

Shri T. S. A. Chettiar: Clause 71 does not refer to any particular State.

Pandit Thakur Das Bhargava: There is nothing like a Central Land Revenue Act.

Shri S. S. More: Different States have different modes of recovery.

Shri T. S. A. Chettiar: What I read is from the Bombay Land.....

Mr. Deputy-Speaker: Mr. Chettiar wants to know if it is the intention of Government to really arrest a person for non-payment of duty and put him in the prison?

Shri C. D. Deshmukh: It is very difficult to give a categorical answer to this question, because there will be all kinds of accountable persons and all kinds of property, and if a property, for instance, has gone to a Company, then you will have to consider what arrest and imprisonment might mean in the case of a Company. It might be a temple to which certain estates have gone. Therefore, to consider that in every case we have in mind the black deed of arrest and imprisonment is wrong. This is part of the common law of the land. The hon. Member seems to have got this afterthought from Section 46 of the Income-tax Act. Obviously, in the administration of these Acts, a certain amount of commonsense must be presumed.

Shri S. S. More: Must be presumed.

Pandit Thakur Das Bhargava: So far as these arguments are concerned, let me examine them in detail a bit. The hon. Finance Minister says that in the Income Tax Act this provision has been there for a long time. I think he is fully aware that previously, so far as the civil debts are concerned, all persons were liable to imprisonment, but now the Civil Procedure Code has been changed and persons can't be ordinarily sent to prison for civil debts in execution of decrees. The law has changed. We have been governed by previous Governments, but no estate duty was imposed then. When the law changes, the circumstances change and the trend of reforms in the country also changes. We must see that if it is the accepted principle in the civil law of the country that no person can be sent to prison for non-payment of dues, it must be followed here also.

Shri A. M. Thomas (Ernakulam): Only if he is unable to pay his debts. But if he is able to pay his debts, he will be sent to prison.

Pandit Thakur Das Bhargava: My submission is that this law or this Bill should be brought into line with the civil law of the country. If he is able to pay but does not pay, that is a different matter. But the hon. Finance Minister supposes that every income-tax officer shall be as soft, as good and as circumspect as he himself is.

Shri C. D. Deshmukh: What I meant was that it is always possible to issue administrative instructions in regard to these Acts and if there is any kind of reformist act in this matter—and I don't deny the existence of such because we are getting day by day a more civilised society—I say that pressure should be brought to bear upon the State Governments in order to reform the Land Revenue Acts but to take out something just for the purposes of this, regard this not as revenue but as civil debt. I am bound to oppose any kind of *ad hoc* reform on the general law merely on this ground.

The other point is answered also, because today whatever one has to collect, one has to go to the State for recovery according to its Land Revenue Act. Therefore, if a distinction does exist, it requires study to appreciate what kind of distinction exists in the laws of the different States and that will go on as we are going on today.

Mr. Deputy-Speaker: There is a Central Act also and I shall find it out.

Shri S. S. More: My submission is this. The Estate Duty Bill is a Central legislation and we must follow a uniform process for the recovery of this duty. Therefore, the penalty clauses, which are going to be imposed for failure to pay the estate duty, should be uniform, but we find different Land Revenue Codes in operation in the different States. Therefore it means we are giving a sort of sanction to all these different revenue codes and different process for recovery of revenue. This is a principle of our Constitution. In a Central measure, there should be no disparity between the modes of recovery in the different States and the Finance Minister cannot content himself by saying that they have been in operation for ages. In the light of the guarantee given in the Constitution for uniformity of treatment to all, it is our responsibility to apply that principle by providing a uniform process for the purpose of recovery. Otherwise, it might be going contrary to the Constitution.

Shri Gadgil: There are certain common features in all the Land Revenue Acts of the various States. The Government dues are normally recovered not through the process of Courts as execution of decrees, but the orders are directly sent to the Collector. One way is sale of the property. The second way is to take possession and manage it. The third is the distress warrant and last is arrest. These are the four ways and I do not think there is anything beyond this. We borrowed this for the Delhi State Land and Premises Act. For the purposes of recovery of Government dues, the provisions of the Punjab Land Revenue Act would apply and those provisions were also borrowed. Similarly, the inequality or equality that exists today exists so far as the purposes of recovering the dues of Income-tax are concerned. We are not changing it at all. If there is any inequality, Mr. More would be good enough to point out that there is anything different apart from the four categories which I have mentioned. Therefore it is a matter for consideration not here, but in some other Act.

Shri N. C. Chatterjee: It has got to be pointed out that the Bombay Land Revenue Act is archaic, mediaeval and, if I may say with respect, almost barbarous. Section 17 of the Bombay Land Revenue Act, 1876, prescribes the manner in which the land revenue may be collected. I am reading from Shri Jamshedji Kanga's book—he is spoken of as an authority on Income-tax Acts:

> "That Section of the Bombay Land Revenue Act lays down that the defaulter may be confined in civil jail for a maximum of one day for each rupee of the amount recoverable from him as arrear of land revenue.

Kanga points out that it is within the power of the Collector of Bombay to detain any assessee in regard to the whole period of his life if the amount due from him is sufficiently large and the maximum limit of detention, that is, six months laid down in the Civil Procedure Code, does not apply.

Shri R. K. Chaudhury: Is it still in force?

Shri N. C. Chatterjee: Yes, I am reading from the 1952 edition of Sir Jamshedji Kanga's book. He has quoted the judgment in 49 I.T.R. 371.

This power of imprisoning defaulters is to be exercised reasonably and not capriciously or oppressively. What we are pointing out is something serious and steps should be taken by the Finance Minister to see that this kind of thing is not repeated. They have this power, which is a giant's power, and it should not be exercised like a giant. Even for technical offences like non-submission of forms in time or vouchers a person may be kept in jail for a number of years. Certainly I think the House can demand of the Finance Minister that he should give an assurance to the House that this kind of thing will never be

allowed and that in no case would a person be sent to jail until the properties of which he has taken possession are first of all sold.

That is the cardinal principle that has been recognised in all taxation measures and that should be made clear in this also by the hon. the Finance Minister.

Shri C. D. Deshmukh: There is one thing to which I wish to draw attention and that is that we are enacting this for the various States, at their request. It was open to them to have said : no, so far as agriculture is concerned certainly we would have our own Act. Had they their own Act they would have said that this would be recoverable as arrear of land revenue. It is not as if we are trying to relegate something to them. We are doing something for them. That is the material point for consideration, how it is to be recovered, because it is going to be recovered for the States as if on behalf of the States.

Shri S. S. More: But by your agency.

Shri C. D. Deshmukh: By their agency. When they fail to recover...

Shri S. S. More: Why not mention some particular Code, the Bombay Code for instance?

Mr. Deputy-Speaker: Unfortunately there is no amendment. It is only by administrative directions. It is the usual practice that the extreme penalty of law may not be imposed. But we have not got an amendment and it goes to the root of the matter.

Shri Vallatharas (Pudukkottai): Sir, I have given an amendment. You will kindly condone the notice and take up that amendment. I entirely oppose the clause and these are one or two of the principles on which I do so. It does not mean you should leave a debris after the amount is recovered. I will request you, Sir, to admit that amendment.

Mr. Deputy-Speaker: I shall see.

Shri Patuskar: This is primarily a duty which is going to be levied on an estate which a deceased person leaves. Therefore, primarily it is the estate out of which the duty ought to be recovered. Now, there are penalties going to be imposed for various reasons as was pointed out by the hon. Member Shri Chatterji. I think it would be wrong in practice that, for the recovery of an amount due under estate duty and for the alleged sin of omission or commission on the part of the man who unfortunately happens to be the heir and who is proceeded against by the authorities concerned, it would be wrong in practice that he should be put in jail, civil or otherwise. I therefore think that though there may be no amendment, nothing will be lost if the Finance Minister gives an assurance that in a case of this nature, instructions will be issued that the person will not be arrested.

Suppose, as my hon. friend Mr. Gadgil says, the man has squandered the estate. This is not a criminal legislation. This is a civil measure. My learned friend forgets that it is not as if we are going to punish a man for some criminal act. What we are going to do is that we are trying to recover the duty because he happens to have inherited the estate. Let us look to the primary nature and object of the Act. If there is a levy of a tax on a man who inherits, in the course of framing that legislation we come across so many things. Penalties have to be imposed. They are all of a civil nature. If the property has been squandered, probably in that mood of my hon. friend Mr. Gadgil the officer might get into and say "Doesn't matter whether the duty is recovered or not, I will put him in jail". That is not the correct attitude. It is not a criminal legislation. (*Interruption from Shri Gadgil*). I am not giving way. I am only urging upon the Finance Minister that nothing will be lost in this case so far as the revenues of the State are concerned if the Fin-

[Shri Pataskar]

ance Minister will give an assurance to the House that in this case they shall make provision in the Rules that it shall not be by the arrest of a person.

Shri R. K. Chaudhury: I wish to oppose this clause as it stands. By this clause Government has really shown its claws, spritely claws, and it amply proves the saying that the sting is in the tail.

Shri C. D. Deshmukh: It is in the claws!

Shri R. K. Chaudhury: In the interest of the Government itself I would like to point out that this clause is very confusing If you say that these duties shall be recoverable as if they were land revenue there will be confusion. Fortunately we belong to a non-regulated province and in Assam there is no such provision, but in the Land Revenue Regulation which lays down the procedure for realising the arrears of land revenue there is no such provision for the arrest of a person who fails to pay arrears of land revenue.

Shri S. S. More: Then you have nothing to complain of.

Shri R. K. Chaudhury: I have nothing to complain against my revenue laws but everything to complain when a particular Minister, who is used to this kind of harsh laws in his own province, namely of arresting a person who does not pay land revenue, tries to impose that barbarous law on the rest of India.

An Hon. Member: How?

Shri R. K. Chaudhury: Because under this clause it will be possible for the authorities to realise estate duty by all the processes which are laid down by the ordinary law of recovering arrears of land revenue. They are going to proceed further and arrest the defaulter.

Mr. Deputy-Speaker: I am afraid the hon. Minister is trying to raise a ghost and then trying to suppress it. Land revenue is a provincial subject. It is in the Constitution. Recovery of land revenue is governed by State laws. Each State law may be different from the other. Therefore Assam will never be touched. Even in a deluge it won't be touched so far as this arrest is concerned. Under the circumstances what is the good of saying that the Finance Minister wants to apply a barbarous law here? The hon. Member evidently wanted to use the word barbarous with respect to Bombay.

Shri R. K. Chaudhury: Sir, you will be astounded to learn that even in the matter of recovering loans from the refugees this provision is applied, and not only are their properties sold but they are liable to be sent to prison.

Mr. Deputy-Speaker: In Assam?

Shri R. K. Chaudhury: Here, in the Capital. In Delhi in the place where you preside over the Parliament of India.

Mr. Deputy-Speaker: We are going away from a dead person to a living person. The hon. Member is speaking about refugees. There is another new clause on which the hon. Member can speak.

Shri R. K. Chaudhury: I am sorry I have not made myself clear. My point is this.

Mr. Deputy-Speaker: I am afraid.....

Shri R. K. Chaudhury: Please listen to me and you will see the point.

Mr. Deputy-Speaker: I have listened with both ears. This is absolutely irrelevant so far as Assam is concerned.

Shri R. K. Chaudhury: Assam is fortunate in this respect. It may be made unfortunate.

Mr. Deputy-Speaker: It can never be made.

Shri R. K. Chaudhury: The law will apply to the whole of India. Therefore, in order to realise the estate duty, it would be possible by virtue of this clause to put the person in prison when all other means of realising the arrears have become exhausted.

Mr. Deputy-Speaker: I shall give my ruling. I am afraid, the hon. Member will not be satisfied unless I say something. So far as arrears of land revenue are concerned, each State has got its own land revenue law. There is no question of applying the land revenue law of one State to another State. Therefore, if he generally says I am in sympathy with Madras or Bombay, and I want to save them against this, that is another matter. He started with Assam and ended with Assam. This does not apply to Assam. He need not pursue this matter. Now, Mr. Vallatharas. I am not allowing his amendment.

Pandit C. N. Malviya: May I say something in support.....

Mr. Deputy-Speaker: I have called Mr. Vallatharas. The clause stands as it is. He may oppose if he wants

Shri Vallatharas: Sir I am opposing this clause. Unfortunately, my amendment is not on file. Irrespective of that fact, I desire to draw the attention of the Finance Minister and those in charge of the Law Drafting Section to the serious consequences that would follow in having such a provision for the recovery of estate duty. In the course of the general discussion, I made a reference to the way in which the tax-payers and the tax-paying estates must be saved from utter ruin. This entire Bill is purely penal. Though it is in the form of a civil law, it is entirely penal. This clause 71 is the real index of the mind of the Government. I shall put it in a precise form after stating some of the reasons for that. In the words of a very eminent author on death duties, the public power which is wielded under this Section is made to assume the role of a bandit, who does not care for the victims, but cares only for the spoils. The law is not only to enable the Government to be run; at the same time, there must also be the idea that the Government cannot run in the course of time if the nation or society and the national wealth are not kept intact. Now it is definitely known that there are three classes of society in this country, the capitalistic or the rich class,....

Mr. Deputy-Speaker: I won't allow this. It is all irrelevant.

Shri Vallatharas: This is highly relevant.

Mr. Deputy-Speaker: Order, order; the hon. Member will kindly resume his seat. There is no meaning in going into society and all that. We have passed all the other clauses. Only we have not got the rates. What estate duty should be levied in what circumstances, etc., all this has been passed. This clause is only procedural.

Shri Vallatharas: My point is....

Mr. Deputy-Speaker: There is no question of going back into society, and classes of society. All that is irrelevant. If the hon. Member says that this process ought not to be adopted for the recovery, but some other process, let him state that.

Shri Vallatharas: I submit to the ruling of the Chair.

Mr. Deputy-Speaker: The ruling is all right.

Shri Vallatharas: At the same time, I should have the liberty of expressing what I want to say.

Mr. Deputy-Speaker: He cannot say anything he likes; it must be relevant.

Shri Vallatharas: I am sorry, the Chair is making a decision without hearing my points. The people who are affected mostly are the upper middle classes. It is only that fact that I wanted to bring out. I am not hostile to the capitalistic class.

Mr. Deputy-Speaker: There is no difference between a capitalist and a non-capitalist so far as this clause is concerned. This clause relates to the mode of recovery. What is the mode of recovery?

Shri Vallatharas: How that would affect the major portion of the population, I will have to state. Or else, how could the Finance Minister be appraised of the effect for reconsidering the entire situation?

Mr. Deputy-Speaker: What is the alternative method?

Shri Vallatharas: I submitted an amendment. That would have enabled me to proceed on a substantial basis. You can exercise your powers and admit it.

Mr. Deputy-Speaker: No, no.

Shri Vallatharas: Of course, there is no other amendment. But, I am disputing the fundamental principle.

Mr. Deputy-Speaker: The hon. Member, evidently, was not here. I have looked into his amendment. He suggests that the lands may be taken or a portion sold. These matters were discussed at an earlier stage, and it was pressed also. He says that some portion of the land may be taken, and so on. Only that portion will be sold normally.

Pandit Thakur Das Bhargava: Not only lands; there are buildings in urban areas.

Mr. Deputy-Speaker: All that has been urged. The hon. Member must not repeat what all has already been said at any stage of the proceedings.

Shri Altekar (North Satara): I have one suggestion to make.

Mr. Deputy-Speaker: The hon. Member has not yet finished. If he has anything more to say, he can go on.

Shri Vallatharas: It is a difficult position in which I find myself to choose the proper words to make myself at home and also the proper aspect to represent. I would request the Chair to excuse me if there is redundance. I would avoid it. This is a very crucial section. We know what the collection of land revenue arrears means. The general trend of this Bill and this crucial clause is careful only about the tax collection and not about the evil effects caused by the mode of collection, which go to disturb society. It is only that point that I wanted to press. If the hon. Finance Minister is alive to that position, I am happy. In the course of the collection of arrears of land revenue by the Collectors, it is a known fact that there are vast areas of waste land throughout the country which are the subject of one anna sales because the economic position of society is not such that there are no bidders to purchase these lands. If the Government has looked into this aspect of the matter it should have prepared statistics to see how many acres of waste lands there are throughout the country by reason of this one anna sale on account of absence of bidders to purchase those lands in the course of the Collectors' sales. It is my personal experience that this sale is only a farce. Several big estates worth so much are sold for an insignificant price. If this policy is followed in regard to very big estates, valued at Rs. 50,000 and going into several lakhs, I will have to state specifically that thousands and thousands of acres will have to come under this one anna sale. If the Government is going to accumulate such waste lands in this country in addition to the already existing vast areas caused by the Collectors' sales, it will be a deplorable thing. The point stressed is this. You know, Sir, what the result will be. If you are mindful only about the collection,

certainly I shut my mouth. But, if it is a question of the interests of the society for which a law must be enunciated, then, my position becomes stronger. When the owner dies, who are the persons remaining? The widow, childless widow, young or old, minor children, and those people, *dayadis*, who want to loot the property whenever a chance occurs. These are the persons who are the inheritors of this property. If there is any doubt about this in anybody's mind, I am sure, he is not conversant with the position in the country. What are the safeguards that have been given in this clause against these conflicting interests of the persons? These properties are to be utilised for augmenting the national wealth with which the Government has to be run. There is a difference between this tax and the Income-tax which touches only the income of the person. If there is a loss of income by abuses in collection, that does not affect the national wealth of the country, the status of the families and the estates which go to build up the nation. In this case, it is truncating the entire estate: estate means the status of the families.

Shri S. S. More: What is the relevance of all this?

Mr. Deputy-Speaker: I am yet to see what the relevance is.

Shri S. S. More: He is reopening all the previous clauses.

Shri Vallatharas: I am not repeating anything that I have said; I am not re-opening anything. If my arguments are not pleasant, of course, that is a different matter.

Shri S. S. More: It is not a question of being pleasant; it is only not relevant.

Mr. Deputy-Speaker: This is not a general discussion in the second reading. That there ought to be no estate duty, that the estate duty must be very simple or nominal, and must have regard to the persons who inherit the property, all that may have been relevant at an earlier stage. What is the method of collection: that is the simple point here. If the hon. Member has anything to say on this, he can say. Or, I will call upon another hon. Member or the Finance Minister to speak.

Shri Vallatharas: It must not be done by this method. I suggest that in the interests of the estates a different principle has to be thought of. There is one principle for collection; there is another principle in respect of national welfare. Therefore, when the tax is assessed and collected, care is taken to see that the tax should be ample or in consonance with the joint family, but when property is taken for arrears of estate duty, that principle is not followed. The law must be equitable. What is applied for one thing, the same must be applied to the other thing also. In this case, a generally progressive and improved outlook must be observed. Such part of the property according to the assessed or estimated value must be taken to meet the demand of the estate duty. Supposing an estate duty is for about Rs. 2,000, only land worth about Rs. 2,000 on the estimated value must be taken.

Shri A. M. Thomas: We have dealt with these clauses

Shri Vallatharas: I am not going into other materials of the Bill, Sir. This is the relevant clause of the Bill in which all these things are relevant. I am not talking about other matters.

Mr. Deputy-Speaker: What is the good of referring to those matters which have already been disposed of?

Shri Vallatharas: So many Members have expressed their opinion, but this is the time we have to decide.

Mr. Deputy-Speaker: All the points which the hon. Member is trying to urge we have got in various clauses which have been discussed, and on which the decision of the House has been given. There is no good urging the same thing here.

Shri S. S. More: He is discussing clause 49.

Shri A. M. Thomas: He was absent for some days.

Mr. Deputy-Speaker: Any other hon. Member.

Shri Altekar: As regards clause 71 and the analogy of the income-tax and the Bombay Land Revenue Code which has been suggested here, I beg to point out that in connection with the recovery of arrears of land revenue under the Code and also under the Income-tax Act, it is primarily the person himself who is in possession of the property—and also, so far as the land is concerned, cultivating the land—that is being proceeded against. Here in this case, it is imposition of the duty on the estate to which the person who is being charged is proceeded against as an heir. According to clause 51 which we have passed, there is also a case wherein a person who, on account of his own neglect or default, has not come into possession of the property, is still being proceeded against. That case also is there. All such cases and the circumstances under which people are being proceeded against should be taken into account in recovering the estate duty from the person. The particular circumstances in which a person is proceeded against must be taken into consideration and extreme remedies should not be resorted to, and as far as possible the estate of the deceased should be proceeded against and the duty should be recovered from that estate.

Shri S. S. More: I have already stated that the effect of this provision will be discriminatory, and I hope, Sir, that you will be pleased to apply your mind to that because the fundamental principle of our Constitution is—I need not emphasize it again—that all subjects should be treated equally.

Mr. Deputy-Speaker: But if different States have different laws, would he say, because one law is different from the other law, that it goes against the Constitution?

Shri S. S. More: My submission is that if different States pass different estate duties referring to agricultural land affected within their own territories, they may have different modes of collection, and even different penalty clauses, but when the Central Government is enacting any piece of legislation and providing for the recovery of dues, the mode of recovery as far as the Central legislation is concerned, ought to be one and uniform. If it is said that the recovery shall be made as arrears of land revenue, the effect of such a clause is that different land revenue codes operating in different States will come into operation without a single incidence or a single method of recovery more or less rigorous or not rigorous. The net result is it is discriminatory in its effect. And for us to say that we suggest a discriminatory result will conflict with the fundamental principles of the Constitution.

Then, Sir, Mr. Chatterjee was pleased to refer to the Bombay Code, but even under the Bombay Code what he has not quoted I will quote further because if estate duty is to be levied and some persons do not pay the estate duty, I am of the opinion that Government must be armed with all the means, with all the instruments, for the purpose of recovering that estate duty. It is no use saying: "Well, Government can recover a duty." Let us have some short method. As far as the Bombay Code is concerned, even by judicial decisions it has been settled that the last method of recovering by arrest should not be tried until the other methods available have failed, and for that purpose, I am again referring to Kanga's book which was quoted by Mr. Chatterjee.

Mr. Deputy-Speaker: Why all this? We are not going into details.

Shri S. S. More: No, Sir. The point is this. Some persons, and particularly Mr. Pataskar, were vigorous in arguing that the man should be arrested for failure to pay the estate duty.

Shri Pataskar: Not only that, but for failure to comply with the other provisions which impose the penalty upon him.

Shri S. S. More: We are now discussing clause 71. We are not discussing any other clause by which monetary penalty is to be imposed. My submission is that under the land revenue Code of the Bombay State which has been in operation for more than 60 years, for 75 years, a small tenant...

Shri Pataskar: May I point out to the hon. Member that under clause 71 it is also penalty payable under this Bill, not only estate duty.

Shri S. S. More: All along we have been pleading that the Bombay Land Revenue Code in its effect, in its operation, is not just, and particularly to the peasantry.

Shri Pataskar: Yes.

Shri S. S. More: But when that particular Code was there, those who were representatives of non-peasantry classes did not say anything about that code.

Shri Pataskar: I can say for myself, if he refers to me, that I had, in the Bombay Legislative Council, moved Resolutions, passed amendments and raised the question that it ought not to be recovered in this manner.

Shri S. S. More: I am not confining my remarks to Mr. Pataskar.

Mr. Deputy-Speaker: Are we getting into deciding of personalities here?

Shri Pataskar: Probably at that time he was not there.

Mr. Deputy-Speaker: Merely because Mr. Pataskar or Mr. More has said so...

Shri N. C. Chatterjee: It is a Bombay fight.

An Hon. Member: Triangular fight!

Shri S. S. More: It is not a Bombay fight. It is a fight between those who are champions of the vested interests and those who are not.

Shri Pataskar: I am championing no vested interest, if he refers to me.

Mr. Deputy-Speaker: Order, order. There must be a limit to this. Hon. Member seems to be arguing for at one time and against at another time. I am not able to follow.

Shri S. S. More: I am sorry, Sir, you have got that impression. Can I not take two alternative positions? As far as we pleaders are concerned, we have the privilege of stating both the sides.

Mr. Deputy-Speaker: I am only stating what the hon. Member has stated. In a written statement it is open to place two absolutely inconsistent alternatives. That is all that I wanted to know.

Shri S. S. More: I am sorry, Sir, for the way in which you are putting it. I am particularly sorry, Sir, because I cannot retort. That is my position.

Mr. Deputy-Speaker: I wanted to know...

Shri S. S. More: My submission is this sort of satire or ridicule becomes a one-way traffic when you are in the Chair.

Mr. Deputy-Speaker: I cannot help it. Hon. Member referred to discrimination and then said that it is there in the one and not in the other. I am not saying that this arrest must be effected.

Shri S. S. More: If only you will have patience to hear me. Unfortunately, I am not given the time to develop my point and the way I am interrupted...

Pandit S. C. Mishra (Monghyr North-East): Notwithstanding the protests of Mr. More, I hope, Sir, the important ruling delivered by you just now shall stand, and shall be available to us in good time and stead.

Shri S. S. More: I say again for your information—I emphasize it—that in the first instance I argued that this particular Clause is discriminatory. Government should say: "Well

[Shri S. S. More]

the dues shall be recovered by a particular method." Let them mention the Bombay Land Revenue Code or the Assam Land Revenue Code or the Madras Land Revenue Code. Let them mention there a particular Land Revenue Code. Then it would be uniform in its application. But, if they are resorting to the different Codes, then my argument is that it will be discriminatory because of different methods of recovery. That is the first part of my argument.

But, supposing now the matter is left to the Bombay Code under this particular provision. It was argued that the Bombay Code goes to the barbarous extent of confining a man in the civil jail, and some people had addressed their arguments and emphasized this particular barbarous part of the Bombay Code. Therefore, I say, Sir, if the duty is to be recovered according to the Bombay Code, then I would say rather that if the defaulters make a default, even the extreme penalty provided by the Bombay Code should come into operation. That is my contention.

I think, Sir, it will not be as ridiculous as is supposed. As far as those who are champions of the vested interests, who support the defaulters, are concerned, I would say that if they are making a default, let the Bombay Code with all its worst effects come into operation against them. That is my submission, Sir. With these remarks I resume my seat.

Shri Tek Chand *rose*—

Mr. Deputy-Speaker: I am not going to have any more discussion. I am fully satisfied.

Shri Tek Chand: There are some aspects of this case...

Mr. Deputy-Speaker: There are many aspects.

Shri Tek Chand: I shall feel grateful if you will give me an opportunity. This is an important matter.

Mr. Deputy-Speaker: The hon. the Finance Minister.

Shri C. D. Deshmukh: Sir, as you pointed out, there is no amendment which is proposed to this clause. Therefore, either you have 71 or you do not have 71. Now, it seems to me that there is no alternative to having this clause, because something has to be provided for recovery, if it cannot be made.

Then an analogy has been cited that in the Civil Procedure Code for recovery of private debts, no imprisonment is permitted. Now that, I submit, Sir, is a false analogy because here we are dealing with duties due to the State.

As regards the next point of discrimination, I do not think I need deal with it, because, as I said, that proves that either the clause is wanted or is not wanted. A point of order should have been raised then that this goes against that particular article of the Constitution. That has not been urged. Therefore, I take it that it is in order for us to pass this clause if we are satisfied that on the merits it is necessary.

Then, Sir, reference was made to the Bombay City Land Revenue Act, 1875, and the hon. Member read out some portion which just taken out of its context is certainly ridiculous—maximum period of one day for each rupee of the amount recoverable. That may be so, but the hon. Member did not read what follows here.

Shri Gadgil: He left it for you to read.

Shri C. D. Deshmukh: It says here—I quote from the same book, Kanga's book on Income-tax, page 804:

> "But this wide power of imprisoning defaulters is to be exercised reasonably and not capriciously or oppressively".

And that is precisely what I was asked to do by administrative instructions. Now, I say that this is a matter which has been taken care of

already by judicial rulings. Those rulings are quoted here. It says under setion 13 that properties should in the first instance be sold before he is apprehended and confined in a civil jail. This is the condition precedent, *i.e.* the sale of the assessee's properties must be fulfilled even if the assessee has been adjudicated an insolvent. Then another case is quoted. If the property is not first sold, the detention of the assessee in prison would be invalid. Then there is another case quoted. Therefore, I think the citizen has all reasonable safeguards.

Then the only other point made was—what happens to a poor chap who squanders the estate before he knows that there is a charge of estate duty in respect of it. I say that after the passing of this Bill, no citizen who intermeddles with the property can profess ignorance that there is such a thing as an estate duty payable. And if, with his eyes open he does choose to squander the property, and if he has no property to sell and has therefore to suffer imprisonment. I do not see why we in this House should shed tears in respect of a matter which essentially concerns the interest of the State.

Mr. Deputy-Speaker: The question is...

Shri R. K. Chaudhury *rose*—

Shri Tek Chand: On a matter of clarification. Sir.

Mr. Deputy-Speaker: We have had enough of clarification. This is a simple point.

Shri Tek Chand: One more question.

Shri M. C. Shah: You have supported it.

Mr. Deputy-Speaker: All right. Mr. Tek Chand. Then one other question for Mr. Rohini Kumar Chaudhury.

Shri Tek Chand: What does the hon. Finance Minister intend to direct or do in a case where the deceased left cash in a safe and all that he had was cash and the woman, the widow, was there alone? Does he intend to imprison the woman when the estate has disappeared because of theft or does he intend to confine recovery in all cases of contumacy or recusancy, that is to say, the person who is contumacious, that person has to be sent to jail or the person who has lost the entire property consisting of cash by theft?

Shri C. D. Deshmukh: This is a hypothetical question and I am not the collector.

Shri R. K. Chaudhury: Supposing a person is liable to pay estate duty to the extent of Rs. 50,000, and by sale of property Rs. 40,000 has been recovered, what will you do for the balance of Rs. 10,000? Will he be imprisoned? Rs. 50,000 was the estate duty payable out of which Rs. 40,000 was recovered by sale of all the properties that he inherited. Should he be liable to imprisonment in order to recover the balance of Rs. 10,000? I want to know whether any provision is made in this clause to protect him in such cases. The other thing is, as the hon. the Deputy-Speaker has said, whether the law in a particular State about recovery of arrears of land revenue would be applied or whether it would be a general law, or the procedure which is laid down in the Bombay Act can also be utilised. Sir, you have said clearly that the law prevailing in the State will apply. If in a State there is no provision for imprisonment, will that law apply in that State? That is what I want to know

Shri C. D. Deshmukh: I do not know what reply is needed. The land revenue will be collected in accordance with the local law, so that if there is no provision for arrest and imprisonment, obviously no arrest or imprisonment will take place. As to hypothetical cases, one can spend all the evening in trying to answer all kinds of possible combinations of

[Shri C. D. Deshmukh]

circumstances. I cannot afford to give an answer on this. All I can say is that if there is some grievance that emerges out of the application of this section in the light of experience—and I am not aware of any similar grievance arising out of section 46 of the Income Tax Act—I shall apply my mind to it and see if anything could be done to avoid any avoidable grievance.

Mr. Deputy-Speaker: Undue hardship.

Shri C. D. Deshmukh: Yes.

Mr. Deputy-Speaker: The question is:

"That clause 71 stand part of the Bill."

The motion was adopted.

Clause 71 was added to the Bill.

New Clause 71A

Shri R. K. Chaudhury: I beg to move:

In page 33, *after* line 31, *insert*:

"71A.—Whenever any dwelling house belonging to a deceased person in which he lived and his heirs and dependents actually live after his death, is sold to realise the estate duty, such sale shall be set aside on payment of the estate duty together with such interest as may be prescribed within a year from the date of sale of the dwelling house in question and no delivery of possession will be given to the purchaser until the expiry of the period of one year from the date of sale".

Mr. Deputy-Speaker: Is this not barred by clause 71 which we have just passed? Is it now open to us to say that it shall not be given for a year more? That is number one. Then, if there is death, recovery of the estate duty shall be made under the revenue recovery Act. I am familiar with Madras. I think there about 30 days or so are allowed. Here it is one year. When we have approved clause 71, I am afraid this amendment is out of order, unless the hon. Member satisfies me.

Shri R. K. Chaudhury: Let me explain the position.

Mr. Deputy-Speaker: This is barred by clause 71.

Shri R. K. Chaudhury: The House has already passed clause 71 which implies that the estate duty which falls due will be realisable as arrears of land revenue. Here, Sir, you have been pleased to state that the law prevailing in the particular State will apply. I want to bring to the notice of the Finance Minister and the House the provisions of law as they apply in West Bengal and Assam. There are three stages there after the sale. The first stage is that a person aggrieved by an order of sale for the realisation of land revenue has the remedy of depositing the amount due together with such interest as may be prescribed. It is something like 5 per cent. and the amount can be deposited within six months, and the sale will automatically be set aside. That is the first remedy. The second remedy is that if there was any irregularity or fraud in conducting the sale, then the sale can be set aside on the application of the person aggrieved. The third remedy—it is there in our law in Assam and also in West Bengal, I think—is that a sale can be set aside on the ground of hardship. It can be set aside within a year on that ground. My amendment follows the last of the three remedies, that is to say, a case of hardship can be made out within a year and then the sale can be set aside.

Mr. Deputy-Speaker: Those provisions are there in the Land Revenue Acts of Bengal and Assam. These are unnecessary and are barred. This is how it happens.

Shri R. K. Chaudhury: What I stated about West Bengal and Assam Acts

was only an argument in favour of my amendment. But I submit that the benefit of this kind of provision should be given throughout the country even in a place like Bombay. A person aggrieved by the sale ought to be able to have the sale set aside by paying the amount due to Government plus such interest as may be prescribed. The dwelling house has not been excluded from the aggregate of property on which estate duty is payable. Supposing there is no cash or any movable property from which the estate duty can be recovered, then if you take the extreme case, it will be this, that the dwelling house will have to be sold to pay the estate duty. This is a new imposition and the deceased may not have anticipated it. I submit, therefore, that one year's grace should be allowed and the person aggrieved should be enabled to set aside the sale by paying the amount due together with the interest. Yesterday, the hon. Minister refused to accept the amendment moved by my hon. friend Shri Chatterjee, namely, the aggrieved person may make an application to the Board on the question of over-valuation, but that has not been accepted. At least this remedy, I suggest, should be granted, so that without making the Government a loser in any way, the person concerned can get the sale set aside. As I said, take the extreme case of an heir who has no cash or movable property and he has only the dwelling house in which he is actually living. It will have to be sold for payment of estate duty. So, I think this one year's grace is not excessive. It is a mercy which should be granted by the hon. Minister.

Shri C. D. Deshmukh: I am not able to accept this amendment. I think that it is an unnecessary complication in view of the very liberal provisions in clause 68.

Mr. Deputy-Speaker: Yes, provision has been made there for payment in instalments spread over six years.

I shall now put the amendment of Mr. R. K. Chaudhury.

Shri S. S. More: You ruled it out, Sir.

Mr. Deputy-Speaker: No. I did not rule it out. I only expressed my doubts and difficulties.

The question is:

In page 33, *after* line 31, *insert*:

"71A.—Whenever any dwelling house belonging to a deceased person in which he lived and his heirs and dependents actually live after his death, is sold to realise the estate duty such sale shall be set aside on payment of the estate duty together with such interest as may be prescribed within a year from the date of sale of the dwelling house in question and no delivery of possession will be given to the purchaser until the expiry of the period of one year from the date of sale."

The motion was negatived.

Clause 72.—(*Estate duty a first charge etc.*)

Shri C. D. Deshmukh: I beg to move:

In page 34, line 1, *for* "Board" *substitute* "Controller".

I also beg to move a consequential amendment—a grammatical amendment—*viz.*

In page 34, line 3, *for* "it" *substitute* "he".

We are now putting "Controller" instead of "Board". So, "as it thinks fit" will not be right; it should be "as he thinks fit" and for that purpose, I have to substitute "he" for "it". The only reason for my moving this amendment is that it has been urged that the release of the charge from estate duty on the whole or any part of the estate duty where such release may be necessary, if it has to be granted by the Board, may cause delay and hardship to the assessees. We do not feel that any particular purpose is served by retaining this power with the Board and that is why we are proposing this delegation to the Controller.

Mr. Deputy-Speaker: The question is:

In page 34,

(i) line 1, *for* "Board" *substitute* "Controller"; and

(ii) line 3, *for* "it" *substitute* "he".

The motion was adopted.

Pandit Thakur Das Bhargava: I would like to say a few words on this clause. In this particular clause, I find that estate duty is regarded as the first charge on the property liable thereto. Yesterday, we passed some provision by virtue of which the property was to be deemed as the property of the deceased for purposes of finding out his share. I wish to quote from Gour's *Hindu Code*, Fourth Edition, Page 651, where Article 191 reads thus:

> "In every partition provision should first be made for—(a) the payment of all family debts; (b) the payments of the father's debts by his son; (c) the maintenance of members entitled to it; (d) the thread and the marriage expenses of members payable by the joint family; (e) and such religious and other ceremonies for which the joint property is liable."

The commentary below it is also worth perusal. Now, Sir, it appears that in a partition also certain members of the family are given maintenance as well as the right of residence.

I want to know, Sir, what would happen to the rights of maintenance and residence of the female relations who are entitled to them, I think, even before the partition is made. There are some matters according to Hindu law, even a provision for charity has to be made at the time of partition. I want to know whether in the view of the Government such a charge will be allowed, such charges and debts as are provided for in section 191 of the Hindu Code (Gour) will be paid before the estate duty will be levied and whether the rights of maintenance and residence etc. will be respected which, according to the law relating to partition of joint family properties are made obligatory under the Hindu law. I am afraid that by passing this law, we were not to that extent be abrogating the rules of partition. I understand that this Bill relates to estate duty and to that extent it makes an inroad into Hindu law. I am anxious to find out from the hon. Finance Minister if he proposes to say good-bye to those principles of partition or whether he wants to respect them and the first charge stated in clause 72 will be only after provision is made for those things which the Hindu law stands for. That is my question and I want an answer to it.

Mr. Deputy-Speaker: 'After the debts and encumbrances allowable under Part VI' is there already. Encumbrances include charges also

Pandit Thakur Das Bhargava: Even today the maintenance charges of female relations constitute a charge on the property. I want to know whether this first charge will abrogate those charges or will they be maintained, because, according to me, even in a notional partition all these charges should have precedence over the first charge of the Government.

Mr. Deputy-Speaker: The exception is made in favour of those charges. It will be a first charge on the immovable property in whomsoever it may vest.....

Pandit Thakur Das Bhargava: Encumbrance is in the nature of a mortgage charge.

Shri M. C. Shah: As far as the heirs of the deceased are concerned.

Pandit Thakur Das Bhargava: Am I to undestand that all those maintenance charges etc. will all be respected and then the duty will be a first charge?

Shri M. C. Shah: Clause 42 is very clear. Whatever are the debts of the deceased.....

Pandit Thakur Das Bhargava: I am not asking of debts. How are we to consider them as debts so that the

maintenance charges of female relations will have precedence. This is a clear question and I want a clear answer to it.

Mr. Deputy-Speaker: If there is a maintenance charge, the property minus the maintenance charge alone becomes the property of the deceased. If the property is sold away to that extent it ceases to be property. Now, there are lesser than life estates or a lease. Lease is not the full property. In a lease the full property does not belong to the deceased but only the leasehold right or interest. Wherever there is a charge the property of the deceased is subject to that charge only. Then, on that property subject to that charge, this first charge will apply; thereafter it cannot be encumbered. That is my reading of it.

Pandit Thakur Das Bhargava: I think that is the right reading also. I wanted a categorical reply from the Government because even in notional partition all the principles and all the encumbrances and obligations which are enjoined by the Hindu law should be respected. It is my humble submission.

Mr. Deputy-Speaker: That is what the hon. Minister said yesterday

Shri C. D. Deshmukh: In a partition whatever has to be taken into consideration will be taken into consideration in arriving at a share. We cannot now proceed to discuss that here in the first charge.

Mr. Deputy-Speaker: He does not refer to partition only. In the case of individuals in whom the property vested, they might have had some other persons whom they were bound to maintain and whose maintenance had become a first charge on the property.

Shri C. D. Deshmukh: In each case we have first to determine what is the property on which the duty will be levied. That will be a legal issue and will have to be settled. Once we say that this is the property and this is the assessment on it, then the estate duty is the first charge and it will not abrogate other charges but it will take precedence over them.

Pandit Thakur Das Bhargava: Which will take precedence?

Shri C. D. Deshmukh: Estate duty.

Mr. Deputy-Speaker: We will assume a valid encumbrance which could not be avoided. This first charge is only subject to that encumbrance. This first charge will become second charge so far as that property is concerned.

Shri C. D. Deshmukh: To the extent that any charge is not saved by clause 42, to that extent, my answer is that clause 72 creates a first charge. To the extent covered by this clause, I say it must remain a first charge. It does not abrogate other charges but it becomes the first charge. Mortgage must be paid out of the surplus after estate duty is paid.

Pandit Thakur Das Bhargava: My question does not relate to any encumbrances of that nature. It is an absolutely different question. According to Hindu law, at the time of partition provision must be made for certain matters which are indicated in section 191 of Gour's *Hindu Code*. My humble submission is that the rights of female relations of the deceased in respect of whom the rights are inherent, are a sort of charge on the entire property and at the time of partition they must be respected. Are you going to exclude them? They will constitute a first charge before the estate duty comes in. I am not questioning about clause 42 which I know all right. Because this clause speaks of encumbrances and charges, I ask about charges which are not mentioned there. According to what fell from the hon. Finance Minister yesterday I thought he said that at the time of the notional partition all these will be respected. I am asking him to make the position clear.

Shri Gadgil: The provisions of this Bill will be applicable as if the whole property belonged to the deceased That is clear.

Pandit Thakur Das Bhargava: That is not very clear and is certainly ambiguous.

Shri N. C. Chatterjee: I wish to point out to Justice Chandrasekhara Aiyar's observations in the latest edition of Mayne's *Hindu Law*. He is the greatest Hindu jurist and Mayne is the standard authority. Mayne says:

> "Before the division of any joint estate is made, it is necessary to make provision for the liability on the joint estate such as
>
> (i) debts due or placed against the family,
>
> (ii) charges on account of maintenance of disqualified heirs, charges on account of maintenance of female members and all those who are entitled to be maintained,
>
> (iii) marriages and such other family ceremonies as have been provided for."

Therefore, Sir, it is very pertinent to know on what you are making a first charge. Are you taking into account only actual mortgages or encumbrances or is the first charge after these debts of the family or the charges for the maintenance of female members etc. who are to be maintained under the Hindu law and also other marriage and other ceremonies which are to be provided for under the Hindu law? This is very important to know. I do not think, Sir, there is any idea or object really to deprive these people who are really under the Hindu law the first charge holders. It may not be said to be a technical charge. Technically it is not a charge unless it is clothed with the authority of a decree of court. If you want to have a correct idea of the estate and a correct estimate of the duty you must give precedence to these prior charges. You cannot have a notion of partition or any kind of valuation of the share of the coparcener until and unless you make a provision for these things which are mandatory. Before a division of a joint estate is made it is necessary to make provision for the liability of the joint estate such as debts etc. Until these provisions are made, you cannot partition or make a division of the estate. I submit, Sir, this should be made clear that the first charge should attach to the residue after the satisfaction of this.

Shri Raghavachari: You are probably aware that the language "first charge" used in respect of dues of the Government has been interpreted thus in Madras. Whatever mortgages and other charges might have been created the word "first charge" has been interpreted as having precedence over all charges. If such an interpretation is placed on this word "first charge" for the dues of the Government, it would really work great hardship. I only want that that kind of interpretation is not intended.

Ordinarily, as you will observe, it is the estate that passed after the death of the person. Therefore, certain charges that have been created, unless they are not *bona fide*, and the estate is subject to those charges and this becomes the first charge subject to other existing charges. Ordinarily the words "first charge" in relation to the Government dues under land improvement Act interpreted in Madras as being a charge enforcible first over all other charges.

Shri C. D. Deshmukh: So far as partition is concerned, it will be in accordance with the Hindu code or custom or whatever it is, that prevails in different parts of India. Therefore, if the conception is that provision has to be made for this and that before even a partition can take place, obviously even in a notional partition we have no wish to change it. What would it be like would be a matter of law I am not familiar with suits arising out of this, that is to say, what the *ad hoc* provision for the marriage of female relative would possibly be in proportion to the value of the estate and the status of the family and so on. I do not know how the provision is made but whatever has to be done or falls to be done before an actual partition would have to be done, that is to say, it is not our intention to de-

part from that process in any manner. So, that question I have answered.

In regard to any other charge one should determine what the property is. Because that process will have to begone through before we determine a share. We cannot make a partition till all these matters have been attended to. After we make a partition we know what a share is; what the property is. Then if to that share is hanging any kind of incumbrance, then I say that the estate duty will be the first charge and first charge in the sense that the last speaker referred to. It must take precedence over all the other charges. That is the scheme of this and no hon. Member has given any amendment to vary or modify this.

Shri R. K. Chaudhury: On a point of order, Sir. Can any hon. Member sit in the Marshal's chair?

Mr. Deputy-Speaker: He will presently sit in this chair.

Shri T. S. A. Chettiar: Sir, the very important points raised have been cleared but one other matter yet remains. If this mortgage shall be the first charge then the proviso to sub-clause (2) of clause 72 is contrary to that. The proviso says:

> "That the property shall not be so chargeable as against a *bona fide* purchaser thereof for valuable consideration without notice".

There is no question of *bona fide* purchaser at all. So, Sir, the first charge is real. The proviso should not be there.

Shri K. K. Basu: That relates to immovable property.

Mr. Deputy-Speaker: Very well. Now the question is:

Shri Tek Chand: Well, Sir, I want to speak about a new aspect.

Mr. Deputy-Speaker: Hon. Member must have stood up before the hon. the Finance Minister stood up.

Shri Tek Chand: I tried to stand up every time. Then there is a new aspect.....

Mr. Deputy-Speaker: Why should you suggest now after the whole thing is over? It must have been suggested at an earlier stage.

Shri Tek Chand: I thought of it naturally after the point was raised by Pandit Thakur Das Bhargava. The new aspect arises out of clause 72..

Mr. Deputy-Speaker: That is true. After Pandit Bhargava spoke I would have called the hon. Member but he did not rise.

Shri Tek Chand: I did rise but I did not catch the Deputy-Speaker's eye.

Mr. Deputy-Speaker: I am sorry my eye is becoming blind. I did not give particular attention because I thought there was sufficient discussion this time.

Shri Tek Chand: There was a divergence, a departure from the English law which I wanted to present to the hon. the Finance Minister.

Mr. Deputy-Speaker: No. I will not allow.

The question is:

> "That Clause 72, as amended, stand part of the Bill."

The motion was adopted.

Clause 72, as amended, was added to the Bill.

Clauses 73 to 75 were added to the Bill.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

Clause 76.—(*Jurisdiction of courts etc.*)

Shri G. D. Somani: I beg to move:

In page 34, *for* clause 76, *substitute*:

> "76. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act".

Shri N. C. Chatterjee: I beg to move:

In page 34, *for* clause 76, *substitute*:

> "76. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act and no prosecu-

[Shri N. C. Chatterjee]

tion, suit or other proceedings shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act."

Shri N. C. Chatterjee: I beg to move:

In page 34, *for* clause 76, *substitute*:

"76. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act and no prosecution, suit or other proceedings shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act."

Shri Pataskar: I beg to move:

In page 34, *after* line 45, *add*:

"Provided that the High Court, having jurisdiction over the area in which the property of the deceased is situated, may call for the record of any case determined by the Board under section 61, and if the Board appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit."

Shri N. C. Chatterjee: I want this to be brought into conformity with the Indian Income tax Act. Under this Bill no prosecution, suit or other proceeding shall lie against any officer of the Government for anything in good faith done. This clause is meant to protect the officers of the Government. The clause, as framed, is too wide and the same may be construed to appear in the legitimate sense that the estate duty is being wrongly and improperly levied. Suppose in case of estate duty—because it is under their jurisdiction—so no mandamus or writ is asked for. It may appear an assertion on the wording of the clause as it stands. I am, therefore, suggesting that if the wording of the Indian Income-tax Act 64 is taken—it has afforded perfectly good protection to the Income-Tax Authorities—I submit, that is a good model which might be adopted. There is no necessity to go beyond that.

That section provides two things (a) "No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act" and (b) no prosecution, suit or other proceedings shall lie against any officer of the Government for anything in good faith done or intended to be done. I submit, Sir, that the immunity is conditional upon their having got good faith and that is perfectly a good reason. That is quite proper having regard to our Constitution to shut out the writs and prohibition of mandamus. Articles 226 and 32 provide that the High Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition *quo warranto* and *certiorari*. So really nothing can be done to over-ride these Articles of the Constitution. So in proper cases orders under Articles 32 and 226 of the Constitution can be issued even in respect of something which was done or is intended to be done under the Act. But Sir, I submit the model which is there in the Indian Income Tax is a good model and should be accepted.

Shri Gadgil: Is it open for a High Court to give an injunction to the Estate duty authority not to proceed?

6 P.M.

Shri N. C. Chatterjee: Supreme Court has now laid down. If there is an illegal assumption of the jurisdiction or something—supposing the man is not the son of a person mentioned, but he claims to be the son, and he is sought to be assessed. Possibly action may lie, and an injunction may issue. But no suit will lie to set aside or modify an assessment. I know of a case in the Calcutta High Court. A suit was filed there, but the Federal Court set it aside, because it infringed section 67. It went to the Privy

Council, and the Privy Council confirmed the Federal Court's decision.

Shri Pataskar: My amendment is to point out that as was just pointed out by the hon. Member Mr. Chatterjee there might be cases in which jurisdiction is not properly exercised or any improper jurisdiction is exercised. In that case, my amendment seeks to confer power on the local High Court whenever any such jurisdiction is either improperly exercised or illegally exercised.

As I said in the morning, while speaking on another clause, as a matter of fact, the whole of clause 55 of the Bill which preceded this Bill gave very wide powers to the High Court from the very initial stage. Under the present Bill, as it stands, we have referred to the Controller's powers. After that, under section 61, there is an appeal to the Board. I want to provide, by this amendment, that there should be a body to revise orders in specific cases. This is not an appeal. As a matter of fact, I would myself have liked that there should have been a right approach, to a judicial authority, by way of appeal but that point has been discussed up to now so many times, and my amendment seeks only to give revisional jurisdiction to the High Court. What I say is, in the interests of justice, a provision should be made for conferring such jurisdiction on the High Court. I have taken this amendment, from Section 115 of the Civil Procedure Code. We have got Dr. Katju's Civil Procedure Code and the commentaries will make it clear that Section 115 is brought into use in special and rare cases. At least my lawyer friends will clearly appreciate that it is only in cases of illegal exercise of jurisdiction, non-exercise of jurisdiction which is vested or improper exercise of jurisdiction which is vested, section 115 is brought into use, and the High Court interferes.

Shri K. K. Basu: In certain circumstances, it would be restricted to the Board, even if the Controller likes.

Shri Pataskar: Up to the stage which we have reached, there is only an appeal to the Board. There is no other appeal to any judicial authority. Therefore, ultimately, the final order, according to the provisions of the Act, is that of the Board. I want that there should be at least the power in the local High Court to superintend these matters, if it is found that jurisdiction, which is not provided by law, has been exercised. I do not think there will be any objection to this. It is not the intention of anybody that these authorities should exercise jurisdiction which is not vested in them.

Then, Sir, "to have failed to exercise a jurisdiction to vested, or to have acted in the exercise of its jurisdiction illegally or with material irregularity." At least the lawyer members know that the High Court very sparingly uses its powers. Therefore, there is nothing new in this—the clause I have suggested. In the first place, I have been consistent with what I have been saying: that there should have been powers given to the High Court itself in a matter of appeal. I find the temper of the House and the mood in which it finds itself at the present moment are not in favour of that. For whatever reasons, it may be, it is too late a stage now to go into that matter. But I would appeal to the Members to look at this question from this aspect; not because a particular class of society is going to be taxed or it is going to be applicable to that class. As I have been contending, we have to look at it not merely with a view to find out whether this applies to this or that class, but to stick to certain judicial principles which are the best safeguards in the Parliamentary democracy which we are trying to establish so firmly in our land. I think the only safeguard is that at some stage or other, the court will find out, and the Court will have to find out whether the jurisdiction has been properly exercised. I think this is the least that can be said on this sub-clause that I have moved as an amendment. What is the harm? The Board would decide a certain case, and the High Court would be vested with the power to make such

[Shri Pataskar]

order in the case as it thinks fit only in a very limited manner. Even that charge that it will be dilatory cannot also hold good in this case.

Then, Sir, this is an enactment which bristles with so many difficulties, and I do not know if the Board, however good it may be, however well-intentioned it may be, is not likely to commit errors in the matter of exercising or non-exercising of jurisdiction and which authority can there be to correct them. It can only be the High Court and none else, Sir.

I do not want to interfere with the Controller. My hon. friend there said, and I say, that ultimately the matter should be decided by the Board, but there should be some judicial authority which would at least be in a position to give some relief if there is anything wrong in the exercise of the jurisdiction by the Board.

Then, Sir, the hon. Finance Minister himself said during the course of the discussion of this Bill, that there are several provisions which contain expressions and phrases which will have to be interpreted in the law courts. The rulings are there, given by English courts during the last 100 years and more, and we have borrowed many times from the law on private property and other matters from their enactments. In the circumstances, it is all the more necessary that even if for certain reasons it is not practicable at this stage—the hon. Finance Minister today said that if it is found it would not work properly, he would at a later stage deal with it again and see what can be done,—and I think he is in a very good mood so far as this is concerned—even if that is not practicable let the provision for the High Court be included now. Looking to the very nature of the Act, looking at the fact that it has been taken from an English Act, and where we ourselves or at least the Finance Minister realised that in respect of interpretation, we have to look to the English law, we will not be able to say what exactly certain provisions in the Bill mean. As has been argued up till now so many times, even eminent lawyers will not be able to say what exactly a certain provision would mean. Under the circumstances, so far as the exercise, or improper exercise or illegal exercise of jurisdiction is concerned, there should be a chance for a man to go to the High Court. In this matter, there is no dilatoriness. After all, the Central Board of Revenue are not persons who will delay. They may be very good people. What I want is that though there may be delay in certain special cases, the provision must be made to give the High Court the power necessary. Once you leave the matter to the High Court, it is their duty to interpret and to interpret terms which are legal and technical. I know, Sir, we are anxious not to have any interference. What I am pleading for is the establishment of certain good principles. Not only in this, but in every case, whichever class there may be, there must be a remedy if at all we want parliamentary democracy in this country to function properly. As early as 1893, in the case of *Reg* v. *County of London Justices* Bowen L. J. expressed a strong view about the necessity for preserving the right of appeal against administrative action. In this case the Lord Justice said:

> "Here is a broad scheme of metropolitan taxation and rating by which the parochial ministerial officers are empowered in the first instance to place values on hereditaments for the purpose of taxation in the broad sense. (It is exactly similar here). In a free country the very essence of such a system must be that there should be an appeal to some body who can say whether those officers are doing what is just, if no appeal were possible, I have no great hesitation in saying that this would not be a desirable country to live in where every parochial officer might do as he liked in this matter. It is quite true that there is enough difficulty in appealing as it is; but if there is to be no appeal at all possible, the system would be intolerable."

Those are the words of an eminent Lord Justice of England in 1899 and they have still force in them. Of course we are living in different conditions and during the last 150 years or so we were subject to several pieces of legislation. I don't want to charge this Government for that. I should like to appeal as humbly as I could to the hon. Finance Minister that for whatever reasons we may not have given the right of straight appeal against the Appellate Tribunal, there would be no harm at least in giving those powers of revision to the High Court to a person aggrieved by the so-called final order of the Board. Nothing is lost and that will not come in the way of realisation of the dues and I therefore think that there is absolutely no reason why such powers should not be given to the High Court. The High Court will only interfere in certain very harsh cases where the jurisdiction has been either not exercised or exercised improperly or illegally. In every piece of legislation, whenever you make a provision of this nature, we have to see that the subject has got the satisfaction that if there is a grievance which he has against the decision of the taxing authorities he can go to somebody else and complain, and where else could he go except to the High Court of the place?

There is another great passage which enunciates the principle which I would like to point out to the hon. Member, because the argument is "what is to the convenience of the people?" I find that many people are just carried away by the fact that we are not as quick as possible and any reference to the High Court is only to cause delay. According to Farewell L. J:

> "The convenience in the public interest is all in favour of providing a speedy and easy access to the Courts for any of His Majesty's subjects who have any real cause of complaint against the exercise of statutory power by Government Departments having regard to the growing tendency to claim the right, to act without regard to the legal principles and without appeal to any Court."

What else are we going to do in this case? I would submit, Sir, that we should borrow this established principle from that land from which we have been borrowing for other provisions already. There is absolutely no reason why such a simple safeguard in extreme cases where the High Court should interfere has not been provided. I would like to say that in all matters of taxation, whether you want to levy it on a poor man or a rich man, if we want to establish this Parliamentary democracy, we must also accept this point and make some provision for a man who has a grievance to go to the Court of Law. This is the least that I can say on this and I hope the hon. Finance Minister will think it over and agree to it if he finds that this does not come in the way of carrying out what he has in view.

Shri Tek Chand: A Board of Members and the Estate Duty Authorities from the Controllers to the Valuers will be let loose to scour the estates of the deceased persons, armed with powers that know no bounds or restrictions, and this clause is going to give them a further impetus. They are not accountable or answerable and they have become beyond the pale of law; the proverbial long arm and the Strong arm of the law dare not touch them. In that process they can commit trivial irregularities, serious breaches, flagrant abuses of law, tortious acts, even criminal acts. All that they have to say is "I purported to do such and such a thing in a *bona fide* manner". This class, the number of which will run into legions, is given a *carte blanche* to do what they like without the High Court touching them or the Supreme Court touching them or any other Court touching them. What Shri Pataskar wants is something very modest. He says that if they have committed abuse of law, don't touch them, but if they have done something which was not within their jurisdiction, then and then alone let the party aggrieved be permitted to refer the

[Shri Tek Chand]

matter to the High Court in order to enable it to find out whether they did something which they were authorised to do or not authorised to do. What I respectfully submit is the restriction. What is the bar? What is the obstacle in the way of a valuer or a Controller doing something which he is not empowered to do. Unless the Government is willing to accept the amendment of my hon. friend Shri Pataskar, if abuse of jurisdiction cannot be questioned in a court of law or cannot be ascertained in a High Court, who is there to prevent an officer, a valuer or Controller or Member of the Central Board of Revenue and to point out that his conduct is outside the scope of his jurisdiction? May I give a simple illustration? 'A' dies and the question for the Controller is "what is the extent of the property left by 'A'? and in his executive over-zeal, in order to please his employers with vim and vigour, he goes about and takes possession of the property not only belonging to 'A' but also takes possession of property belonging to 'B' stating that "I assume that the whole property belongs to 'A' ". It can be out of sheer over-zeal and it can be out of deliberate design or it may also be out of mere clumsiness. Supposing the property of 'B' is taken possession by a Valuer as the property of 'A', what protection has 'B' with regard to his property? The Valuer or the Controller has no power really. Assuming that 'B' is absolutely unrelated to 'A', all that he has got to do is to give the property of 'B', the label that it is the property of 'A' the deceased, to take it into his calculations and to impose such estate duty as he considers proper according to his fancy, according to his whim or according to his caprice. What check is there for "B"? Are you going to bang the door against "B" and tell him "you cannot go to the High Court" and tell the High Court that this Controller gentleman attached property, of B, whereas the dead man was "A" and it was not A's property? He cannot even prove this. This unlimited, unhampered, unfettered power you are putting into the hands of those who in their executive over-zeal will do as they like, as their fancy directs, or according to their notions of policy.

Roman lawyers—pardon me, Sir, but I have to go back to thousands of years when it comes to the protection of the liberty of the people—Roman lawyers had four words which contain the entire gist of justice:

Fiat Justitia Ruat Coelum.

Let justice be done even if the Heavens fall. Even if the Heavens fall justice must be done.

This was the notion. But here is an example. When there is a palpable, patent, open abuse and breach of your law, the person who happens to be the victim of that abuse, the person who happens to be the victim of that irregularity, he cannot knock at the door of a High Court or any other judicial tribunal in order to say that the power that was conferred by this Act has not only been not exercised properly but that the officer has arrogated to himself a power that was never vested in him, that was never intended to be given to him. Under these circumstances, Sir, whereas this Act (as it will soon be) has got great potentialities for abuse, this clause alone will give an absolutely unbridled licence to those who are out to abuse it. And all that is wanted is to suitably amend the clause. The High Courts are your highest tribunals in the land, which enjoy the greatest confidence of the people—is it too much to say, if you have an officer who by error or design does something which he was never empowered to do, that the High Court should.....

Mr. Chairman: I will ask the hon. Member not to repeat the very same arguments over and over again.

Shri S. S. More: He is repeating for emphasis.

Shri Tek Chand: My submission is this, Sir, that it should be the elementary right of a citizen when he feels

aggrieved to go to an appropriate forum, demonstrate to its conviction and satisfaction that he has been actually aggrieved, and that forum should be enabled to accord to him satisfactory relief. That is all that I ask.

Shri Gidgil: Sir, in the first place I am doubtful whether this amendment is in order. The House took the decision that there should be no appellate tribunal. In other words, the jurisdiction of the court is barred except to the extent to which it has been provided in clause 62. (*Some Hon. Members*: No, no). As I interpret it, the full implication of the decision taken by the House is that so far as the courts are concerned they have no power, whether appellate, original, revisional or inherent, except to the extent to which provisions have been made in this Bill.

But on the merits of this what I find is that all the circumstances in which the extraordinary jurisdiction of the High Court is invited are circumstances which relate to points of law. To have exercised jurisdiction not vested in law is a question of law. To have failed to exercise jurisdiction so vested in law is, according to my humble opinion, also a question of law. To have acted in the exercise of its jurisdiction illegally, obviously shows that it has something to deal with law or with material irregularity which we all generally understand to be something which is a point of law. The whole object of this is achieved by the provision under clause 62. Therefore there is no necessity for having an amendment of this character. But the object is not so innocent. The object is to open the whole question.

Shri Pataskar: Points of law are not as a matter of fact covered by this. There are rulings under the Civil Procedure Code.

Shri Gadgil: In a reference to the High Court as you said that no facts are involved then there is no necessity. Obviously this is a superfluous provision. Either it is superfluous or it is something more than what you have said. My own feeling is that under the pretence of giving some jurisdiction to the High Court the entire scheme that had been adopted by the House is sought to be sabotaged. I oppose it.

Shri Pataskar: How will it be?

Shri A. M. Thomas: I support the amendment moved by Mr. N. C. Chatterjee and oppose the amendment moved by Mr. Pataskar. As was pointed out by Mr. Gadgil, the amendment that has been moved by Mr. Pataskar covers only questions of law and nothing else. He has borrowed this amendment from the wording of section 115 of the Civil Procedure Code. With regard to section 115 of the Civil Procedure Code he will find under the decisions relating to the revisional jurisdiction of the High Court, the High Court is not entitled to go into all questions of law. It is an extraordinary jurisdiction and the provision really limits the jurisdiction of the High Court which we have given under clause 62. In a Privy Council decision it has been pointed out, as extracted in the Civil Procedure Commentary by Dr. Katju, as follows:

> "Section 115 applies to jurisdiction alone, to irregular exercise, or non-exercise of it, or the illegal assumption of it, and is not directed against conclusions of law or fact in which jurisdiction is not involved."

Cases where jurisdiction is involved are questions of law. But certain questions of law are taken out of the jurisdiction which has been given, under section 115 of the Civil Procedure Code. So that, according to me, by the amendment moved by the hon. Member the jurisdiction that has been conferred by clause 62 which we have passed is taken away, and I therefore oppose this amendment.

At the same time, I may make my postion clear. I pleaded for the setting up of an Appellate tribunal to decide questions of law and fact. I am not against the principle which

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has been pointed out by the hon. Member. But, all the same according to me, if this amendment 205 is adopted by this House it will be really circumscribing the jurisdiction which we have conferred under clause 62 of this Bill. At the same time, as I have already submitted, the amendment moved by Shri N. C. Chatterjee is to be adopted. He has pointed out an identical provision in the Indian Income-tax Act. Where the Revenue Board has exercised a jurisdiction, if you can apply for a writ or some such remedy from the High Court or Supreme Court, according to me, such remedies should not be shut out by any provision that we make in this law. I support the amendment moved by Shri N. C. Chatterjee and oppose the amendment of Shri Pataskar.

Shri Raghavachari: I rise to point out one small defect that I find in the drafting of the clause as it is. I think it is in line 42.

The provision is:

> "Save as provided in this Act, nothing done or in good faith purporting to be done..."

The words "in good faith" must either precede or come at the end, and not be applicable only to things purporting to be done. Otherwise, it means, everything done, even in bad faith is protected. There is absolutely no hope. If anything is purporting to be done, then only the question whether it is in good faith or not is relevant. Generally, in all legislative enactments, the words 'in good faith' are with reference to both things done and purporting to be done. *Mala fides* acts are always open to question. I would request that the words 'in good faith' may be in the beginning or in the end: that is: nothing in good faith done or purporting to be done or nothing done or purporting to be done in good faith. This will give some kind of safety in both class of cases. That is a very small thing. I suppose it is permissible to agree to alter it.

The other thing that I wish to submit is this. So far we have seen, in every fiscal enactment or in every case where protection for *bona fide* acts of public servants is provided, the language that is used in the section is a language in conformity with amendments 341 and 423. In this Bill, the words used abrogate the usual jurisdiction. It is not the usual language. Therefore, I am in favour of adopting clause 76 as it is proposed to be amended: otherwise the existing clause: is really going to take away the intended jurisdiction and bar the whole examination whether the protection is justifiable. Therefore, I submit that I am in favour of amendments 341 and 423.

Then, I wish to say one sentence about the amendment given notice of by Mr. Pataskar. I feel that the contention raised by Mr. Thomas that it will affect the jurisdiction that we have given in some other section by way of reference to the High Court on questions of law and fact is not correct. What is contemplated now is this. Whenever a jurisdiction not vested in the officers is exercised, the question is sought to be taken to the High Court for examination.

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): You have article 226 today.

Shri Raghavachari: Of course there is article 226. It is a remedy which is available. You cannot take it away. But, it would be better to specify that kind of safeguard when you are passing a law. I would content myself by saying that if that jurisdiction continues and is not intended to be taken away, if that is Government's attitude, there is no need to further elaborate that point. That is what I also thought. If it is put here, it will secure greater confidence.

Shri C. D. Deshmukh: Mr. Chairman, in regard to the amendments 205, 341 or 423, I think, they are an improvement on the clause as it stands here. I am prepared to accept

that provided a slight change is made: that is, set aside or modify, instead of "any assessment made", it should be "any estate duty determined". There is no assessment here.

Shri Raghavachari: You may also consider this: whether it should not be "No suit or proceeding". The word 'proceeding' is not there.

Shri N. C. Chatterjee: I am objecting to the word 'proceeding'. The word 'proceeding' would enlarge everything and would include article 226 also or article 32. You cannot do it; that would be repugnant to the Constitution.

Mr. Chairman: It would be abridging the jurisdiction of the Supreme Court.

Shri N. C. Chatterjee: That would be *ultra vires*.

Shri C. D. Deshmukh: I think 'suit' is sufficient for the purpose which we have in mind. I am not in any way prepared to enlarge that. If the hon. Member will accept this change.....

Shri N. C. Chatterjee: May I just suggest for the hon. Minister's consideration: is it 'any estate duty determined' or 'any determination of the estate duty'?

Shri C. D. Deshmukh: What is sought to be set aside or modified is not the determination, but the estate duty.

Shri N. C. Chatterjee: That is really determination.

Shri S. S. More: Supposing these words are introduced in the amendment as suggested, will it not mean that all other matters prior to the determination of the estate duty will be open for challenge in a court?

Shri C. D. Deshmukh: I am only concerned between 'assessment made' and 'estate duty determined'.

Mr. Chairman: Even today, the word assessment is there. Are any matters leading to the assessment open to be decided by way of suit?

Shri S. S. More: I am asking a question for clarification. We have given under clause 61 very extensive powers of appeal. If this amendment is accepted by the Government with the proposed modification, a strict interpretation of that would open the door and mean that only these suits will be barred. That is to say, suits regarding other matters which do not directly pertain to the assessment or estate duty determined, will be allowable.

Mr. Chairman: What is the use of bringing a suit if it does not seek to modify?

Shri S. S. More: May I make a submission? In the process of coming to the final conclusion regarding the final levy, so many interlocutory orders, so many adjudications will have to be made and so many points determined. After the determination of a lot of points, the final act of fixing the liability or the final duty will come in. This particular amendment, by implication, would mean that no other suits are barred. I want to have it specifically clarified so that there should not be any doubt. If we visualise that and the Finance Minister is prepared to leave the door open, let us consciously do it and not in an unconscious manner.

Shri Tek Chand: May I submit, Sir, one thing? While the hon. Finance Minister is accepting any part of the amendment of Mr. Chatterjee, he should retain these three words in the clause 'estate duty authority' and should not accept the words as suggested by Mr. Chatterjee, 'any officer of Government'. In amendment No. 341 of Mr. Chatterjee, he says:

> "..... no prosecution suit or other proceedings shall lie against any officer of Government.....".

Whereas in clause 76, the words are:

> "..... purporting to be done by any estate duty authority".

[Shri Tek Chand]

I submit that the words 'estate duty authority' should be retained, and the words suggested by Mr. Chatterjee, 'any officer of Government' be not accepted.

Shri S. S. More: What would happen to the Collector, under clause 71.

Shri Tek Chand: The object is to grant protection to those persons who fall under the definition of estate duty authority, *viz.*, members of the Central Board of Revenue, the Controllers and the valuers as defined in clause 4. This exemption should not extend to any and every kind of officer of the Government who happens to be engaged in doing all sorts of things forbidden by law and yet enjoying that protection.

Shri K. K. Basu: He is an officer for this particular Act.

Shri C. D. Deshmukh: May I draw attention to Setcion 67 of the Income-tax Act which reads as follows:

> "No suit shall be brought in any civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceedings shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act."

So, all that we are doing is taking a Section which has been found good enough here and only trying to vary it so as to make it fit the estate duty in this context and not the assessment made under the Income-tax Act. Now, the next point is.....

Shri U. M. Trivedi: One question that I want to put to the hon. Finance Minister is about this. I would like to know what is the meaning of this proceeding. Is it limited to.....

Mr. Chairman: When the hon. Finance Minister has finished his speech, the question may be put.

Shri C. D. Deshmukh: This is the commentary on Section 67. This is Kanga's. On Page 900-901 it says:

> "After the coming into force of the Constitution of India, the position regarding suits and petitions for writs, orders etc., relating to proceedings under this Act may be summed up as follows:
>
> (1) The bar imposed on the High Court's original jurisdiction in revenue matters by Section 226 of the Government of India Act, 1935, has been completely removed.
>
> (2) Section 67 of this Act still operates to bar suits in any civil Court to set aside or modify any assessment or proceedings in respect of anything.....".

—may be issue of a certificate which is not an assessment—

> "... in respect of anything in good faith done or intended to be done under this Act, and
>
> (3) Writs in the nature of certiorari, prohibition and mandamus and other suitable writs, directions and orders may be issued by the Supreme Court under article 32, and by the High Court under article 226 of the Constitution. These powers are not affected at all by Section 67 of this Act. But a Court, in the exercise of its discretion, will not normally exercise its powers under article 32 or 226 where an adequate and equally convenient remedy is open to the assessee under this Act or where there is a suppression of material facts."

Now, that is the situation in respect of this Section of the Income-tax Act, and after we accept this amendment. I think that situation

will obtain in regard to the determinations of estate duty under this Act. And I think in all conscience that ought to be sufficient.

It is my personal view, Sir, that Shri Pataskar has missed the bus. That is to say, if he had thought of suggesting something in Section 62 itself in order to widen the powers of revision or appeal or whatever it is, it might have been a different matter.

Shri Pataskar: It could not have fitted in there. That is my opinion, because it deals with points of law, and what I want is only to confine it to.....

Shri C. D. Deshmukh: So far as I am concerned, I say.

Shri Pataskar: But I could not do it.

Shri C. D. Deshmukh: That is so, I only stated it as my personal view. I dare not put it against the opinion of a seasoned lawyer. I can only place it before the House. And I am inclined to think that all these questions of jurisdiction, exceeding the jurisdiction, doing something illegally, unlawfully and so on, are essentially questions of law. And therefore, they ought to be governed by Section 62.

Shri A. M. Thomas: The only distinction is that every question of law need not be a question of jurisdiction, but every question of jurisdiction is a question of law.

Shri C. D. Deshmukh: That is right, Sir. We are only concerned with a misuse of jurisdiction.

Now, Sir, Shri Pataskar supported his amendment by reading out something from the book "Law and Order" but there he made references to parochial officers exercising jurisdiction and he said it was monstrous—I don't know whether the word "monstrous" occurred....

Shri Pataskar: I only read out the judgment.

Shri C. D. Deshmukh: I cannot quarrel with the judgment. I am saying that the facts referred to in the judgment do not fit this case. The Board is not a parochial officer, whatever it may be. They may be barbarous or they may be anything else, but they are certainly not parochial.

Shri Pataskar: That is used in the sense of non-judicial.

Shri C. D. Deshmukh: Then it says no appeal is provided. Now, we have provided for appeals. Then he went on to say how terrible it was to entrust these powers without appeal to any Court.

Shri Pataskar: Yes.

Shri C. D. Deshmukh: Now, I say this is a travesty of what we have actually provided.

Shri Pataskar: No.

Shri C. D. Deshmukh: If the hon. Member had said this is not sufficient, something more ought to have been provided, well, that is a point of view one ought to take into consideration. But, if he reinforces his argument by saying that there is no appeal whatsoever and we do not know what these obscure, parochial officers are going to do, then I say these arguments do not fit this case. I am inclined to agree with Mr. Gadgil that we shall open wide the doors of jurisdiction of the Courts which, in important cases, are already open as I pointed out under those articles of the Constitution, and we ought to be content with that situation. Therefore, I am sorry I am not able to accept amendment No. 705.

Mr. Chairman: May I just enquire what is the amendment which has been proposed? What words are going to be substituted for the word "assessment"?

Shri M. C. Shah: "Estate duty determination".

Mr. Chairman: Under this Bill?

Shri C. D. Deshmukh: It is exactly parallel to "assessment made".

Shri Tek Chand: Does the hon. Finance Minister intend.....

Shri C. D. Deshmukh: Can he speak from a place which is other than his usual seat?

Shri K. K. Basu: He is moving nearer to the Treasury Benches.

Mr. Chairman: The hon. Member, Mr. Trivedi, wanted to put a question?

Shri U. M. Trivedi: The hon. Finance Minister read out from the commentary of Kanga on the Income-tax Act. The whole difficulty is this, that what we discussed.....

Shri C. D. Deshmukh: Is the hon. Member making a speech after my speech?

Shri U. M. Trivedi: Yes.

Shri K. K. Basu: Is there any levy of duty on that? He wants clarification.

Shri U. M. Trivedi: I want a clarification. Mr. Chatterjee's amendment reads:

> "No suit ..... no prosecution, suit or other proceedings shall lie against any officer of Government for anything in good faith done or intended to be done under this Act."

Now, there are two modes of action, personal actions and official actions. If the proceeding under a writ is taken against any officer in his official capacity, that should not be barred by this. And to make that clear—if the anxiety of the Government is only to prevent its own officers being in any manner harassed—my suggestion is this, that the words "no personal action against such person shall lie" can be put in there.

Mr. Chairman: The hon. Member is not putting a question. He is proposing an amendment at this stage after the Finance Minister has spoken. I thought he was asking some question for clarification.

Shri U. M. Trivedi: I came rather late, but I want to put it like that. If that is possible.....

Mr. Chairman: I cannot accept an amendment at this stage of which no notice has been given.

Shri Tek Chand: The question is...

Mr. Chairman: No questions are allowed. This is not a Question Hour. I do not know how questions can be put at any time. The hon. Member has spoken. The hon. Finance Minister has replied. Now there is no room for any other questions. If he wants to put any other question, I cannot allow it.

Shri Tek Chand: I only wanted to know for guidance whether it is not a mixed amendment of Shri Chatterjee which is being accepted in entirety.

Mr. Chairman: Order, order. Does he want to raise a point of order? In this House we have been dealing with amendments in this very way. If it is agreed to by all sides, we accept it. That is the proper procedure. I shall now put the amendment to the vote of the House.

The question is:

In page 34, *for* clause 76, *substitute*:

> "76. No suit shall be brought in any Civil Court to set aside or modify any estate duty determined under this Act and no prosecution suit or other proceedings shall lie against any officer of Government for anything in good faith done or intended to be done under this Act".

The motion was adopted.

Shri G. D. Somani: In view of this I do not press my amendment.

Mr. Chairman: Shall I put Mr. Pataskar's amendment to the vote of the House?

Shri Pataskar: Yes, Sir.

Mr. Chairman: The question is:

In page 34, *after* line 45, *add*:

"Provided that the High Court, having jurisdiction over the area in which the property of the deceased is situated, may call for the record of any case determined by the Board under section 61, and if the Board appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 76, as amended, stand part of the Bill."

The motion was adopted.

Clause 76, as amended, was added to the Bill.

New clause 76A

Shri C. D. Deshmukh: I beg to move:

In page 34, *after* line 45, *insert*:

"76A. *Power to take evidence on oath etc.*—Every authority specified in sub-section (1) of section 4, other than valuers, shall for the purposes of this Act have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908) when trying a suit in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses;

and any proceeding before any such authority under this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860)".

This amendment is based on a similar provision contained in the Indian Income-tax Act, namely, section 37. We feel that such a provision is both useful and necessary in a revenue measure.

Mr. Chairman: The question is:

In page 34, *after* line 45, *insert*:

"76A. *Power to take evidence on oath etc.*—Every authority specified in sub-section (1) of section 4, other than valuers, shall for the purposes of this Act have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908) when trying a suit in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

[Mr. Chairman.]

(d) issuing commissions for the examination of witnesses;

and any proceeding before any such authority under this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act, XLV of 1860)."

The motion was adopted.

New clause 76A was added to the Bill.

Clauses 77 to 79 were added to the Bill.

New clause 79A

Shri C. D. Deshmukh: I beg to move:

In page 35, *after* line 17, *insert*:

"79A. *Appearance by authorised representatives.*—Any person accountable for estate duty who is entitled or required to attend before any authority specified in sub-section (1) of section 4 in connection with any proceeding under this Act, otherwise than when required under section 76A to attend in person, may attend by a person authorised by him in writing in this behalf, being a relative of or a person regularly employed by that person, or a legal practitioner or a chartered accountant.

Explanation.—In this section—

(a) a person regularly employed by the accountable person shall include any officer of a Scheduled Bank with which the accountable person maintains a current account or has other regular dealings;

(b) 'legal practitioner' means an advocate' vakil or attorney of any High Court in the territories to which this Act extends and includes a pleader practising in any part of the said territories;

(c) 'chartered accountant' means a chartered accountant as defined in the Chartered Accountants Act, 1949 (XXXVIII of 1949)."

At one stage, it was felt that appearance before estate duty authorities could be regulated by rules, but it would be much more satisfactory if provision in this behalf was expressly included in the Bill itself, as has been done in the Income-tax Act, section 61. It is also advisable that appearance should be confined to the persons concerned or to the relatives or, in the alternative, to legal practitioners and chartered accountants. We feel that we should not allow Mukhtiarkars and revenue agents and people with such or lesser qualifications to appear before revenue authorities administering a complicated law like the present one.

Mr. Chairman: The question is:

In page 35, *after* line 17, *insert*:

"79A. *Appearance by authorised representatives.*—Any person accountable for estate duty who is entitled or required to attend before any authority specified in sub-section (1) of section 4 in connection with any proceeding under this Act, otherwise than when required under section 76A to attend in person, may attend by a person authorised by him in writing in this behalf, being a relative of or a person regularly employed by that person, or a legal practitioner or a chartered accountant.

Explanation.—In this section—

(a) a person regularly employed by the accountable person shall include any officer of a Scheduled Bank with which the accountable person maintains a current account or has other regular dealings;

(b) 'legal practitioner' means an advocate, vakil or attorney of any High Court in the territories to which this Act extends and includes a pleader practising in any part of the said territories;

(c) 'chartered accountant' means a chartered accountant as defined in the Chartered Accountants Act, 1949 (XXXVIII of 1949)."

The motion was adopted.

New clause 79A was added to the Bill.

Clause 80.—(*Company to furnish etc.*)

Shri C. D. Deshmukh: I beg to move:

(i) In page 35, *for* lines 33 to 39, *substitute*:

"(2) If any member of a company formed and registered under the Indian Companies Act, 1913 (VII of 1913) dies after the commencement of this Act and the company through any of its principal officers as defined in section 18, has knowledge of the death, it shall not be lawful for the company to register the transfer of any shares standing in the name of the deceased member unless there is produced before it a certificate from the controller that either the estate duty in respect thereof has been paid or will be paid or none is due as the case may be."

(ii) In page 35, lines 27 and 28,

for "at such scale as may be fixed by the Act of Parliament in pursuance of section 34" *substitute* "at the rates mentioned in part III of the Second Schedule".

(iii) In the amendment proposed by me,

after "unless" *insert* "the company is satisfied that the transferee has acquired such shares for valuable consideration or".

Shri Tulsidas: I beg to move:

(i) In page 35, *omit* lines 33 to 39.

(ii) In the amendment proposed by Shri C. D. Deshmukh, to the proposed sub-clause (2), *add*:

"Provided that this sub-section shall not apply to transfers of shares held by a *bona fide* purchaser for value who purchased the shares prior to the death of the deceased."

Shri S. G. Parikh (Mehsana East): I beg to move:

(i) In the amendment proposed by Shri C. D. Deshmukh,

after "unless" *insert* "the company is satisfied that the transferee has acquired such shares for valuable consideration or".

(ii) In page 35, *omit* lines 33 to 39.

Mr. Chairman: All these amendments are now before the House.

Shri C. D. Deshmukh: Under clause 20, moveable property situated in India is dutiable, even though the owner of the property is not domiciled in India. Thus, if a person not domiciled in India holds shares in a company incorporated in India, the property held by him in the form of shares comes within the scope of the Bill. Whether the moveable property is situated in India or not is to be determined by rules. Now, ordinarily speaking, the situs of the shares of a company is where the registered office of the company is located. There are, however, certain companies mainly in plantation and in mining and public utility companies like Electricity or Tramway which operate wholly or mainly in India but are registered abroad. The situs of the shares of such companies, by whomsoever held, would be outside India and therefore, property held in the form of shares in such companies would not be dutiable except in respect of those

[Shri C. D. Deshmukh.]

domiciled in India. Such companies, however, hold most of their assets in India and get all the advantages of an orderly government. There is, therefore, no reason why shareholders of such companies who derive the bulk of their profits from India should not be subject to estate duty. Clause 80(1) therefore, subjects the shareholders of companies which have been resident in India for two out of the three previous years, that is, to those companies which earn more than 50 per cent. of their profits in India. The clause makes the duty payable by the company and not by the shareholders.

7 P.M.

This is because in the case of foreigners it is not possible for us to recover our taxes from them as ordinarily such foreigners have no assets in India from which the duty can be recovered. The rate prescribed in the schedule is a flat rate of duty on the analogy of section 17 of the Income-tax Act. For income-tax purposes also we apply a flat rate of super-tax in those cases in which foreigners do not declare their total world income. A duty of this nature, Sir, is not unknown in other countries. In Ceylon a specific surcharge in lieu of estate duty is imposed on the income-tax payable by foreign companies. In New South Wales, all companies engaged in agriculture, mining and plantation are subject to estate duty by special legislation. There also the liability for the payment of the estate duty is on the company. The share-holders of such companies domiciled in India are not affected by this flat rate. In their cases assessments will be made in the ordinary way. That, Sir, is the justification.

Now, Sir, this clause 80(2) has been severely criticised on the ground that it will destroy free negotiability and marketability of shares with serious repercussions on stock exchange and development of joint-stock enterprise. It will be recalled that this sub-clause was inserted by the Select Committee as, in their opinion, such a clause would ensure speedy realisation of estate duty in the case of the deceased share-holders of companies. It must, on the other hand, be conceded that this clause, unless suitably modified, might work to the disadvantage of companies and also might prevent the free negotiability of shares. Shares are freely transferable and in many cases the transferees may not know that the transferor is dead. And, consequently, if in such cases registration is refused by the Company the free negotiability of shares is unduly affected. And this, we fear, is likely to have its repercussions on the Stock Exchange and trade. It is for this reason that we seek to modify the clause. We have taken counsel with the various Stock Exchanges in the country and they generally approve of this amendment.

Mr. Chairman: I take it that all the three amendments in the name of the hon. Minister have been moved.

Shri C. D. Deshmukh: There is an amendment to the amendment of mine, Sir.

Mr. Chairman: That has been moved.

Shri C. D. Deshmukh: I moved it. Mine is 744 and the other one of Mr. Parikh is 745.

Shri S. G. Parikh: The Clause 80(b) was not originally intended to be added to the Act. Then, as the Finance Minister has pointed out, the Select Committee thought it fit to include it with a view that it will help to realise the estate duty earlier. As a matter of fact, if this clause is there or not, it is not going to help the recovery of the estate duty. On the contrary even as amended there is likely to be some difficulty.

Suppose shares are held in joint name of the share-holders and suppose a single person dies. Naturally the company has been informed that the

particular person is dead. So at the time of cess enormous difficulties would arise. They have to get the certificate from the Controller which will take some time. So I would urge that the whole clause may be omitted. But in case the Government does not accept the amended clause, it will serve the purpose for the time being.

Another fact is that as the clause is it will adversely affect the joint stock company working and the formation of capital. The negotiability of shares should be very flexible and people would like to go in for investment in shares when they can sell easily or buy easily. *So I would urge the removal of this clause. Relevant paragraph regarding this I will read:*

> ("Marketability and negotiability which are distinguished characteristics of stocks and shares and the principle of bargain as the most popular form of investment will be ruthlessly destroyed. The Stock Exchanges will cease to function effectively and free trading in shares will be paralysed. Normal investment of capital in stocks and shares on which the growth and the progress of the joint stock enterprise depends will be paralysed.")

In view of the Five Year Plan and the private sector the Joint Stock enterprise should come forward and in the modern industry vast capital is necessary; individually one cannot subscribe. To make it more attractive this clause may be omitted but in case they cannot, they may retain it. These observations they might see and look to that.

Shri Tulsidas: The amendment as moved by the Finance Minister provides that if it is within the knowledge of the officers of the company, it shall not be lawful for the company to register the transfer of any shares standing in the name of the deceased member unless he produces a certificate from the Controller to the effect that estate duty from the transferor has been or will be paid or none is due. Sir, I find that the amendment says that if the company is satisfied with the transfer, he has acquired such shares for valuable consideration. I know that this includes the possession, but the fact is that though this amendment does improve the position, the whole clause becomes so restricted, that it will be very difficult for the normal business or normal negotiability of the shares to be conducted. Let us take that even in the normal course of business, if a person has sold his shares in, say, the Bombay market or in the Calcutta market or anywhere else, his transfer goes, his transfer is sent there and the transfer is sent back after the signature by the buyer, when the transferor is dead. According to amendment No. 745, they may be covered under the clause, but still, it will create a sort of difficulties. Because what will happen automatically when the share is sold? The company will have to be satisfied that this was a transfer for valuation received or whatever amount of money which the person has received. That is what the amendment says: "Unless the company is satisfied that the transferee..." etc. Therefore, the company will have to ascertain before the transfer of the shares that the money has been received by the transferor. Now, Sir, it will be very difficult for the normal transfers to take place. Every time the transfer comes, the company has to go into the facts, find out whether money has been received or not, etc. It will create a lot of difficulties in the normal transaction of business. I do not know why this amendment No. 592 was ever brought in. I understand from the hon. Finance Minister the reasons why this amendment has been brought in. When the Select Committee considered this point, the amendment was not there at the time. It was not discussed, and we felt that clause 89 would serve the purpose. Sub-clause (2), which is now amended by amendment No. 592, is there. I personally believe that the stock exchanges of

[Shri Tulsidas.]

different towns have represented and in their representation this amendment No. 592 has been brought in. I do not know what the reasons are. Now that the difficulties have been explained, the clause may be gone into. To my mind, it is bound to create a certain amount of difficulty because in the normal business, it will have to be looked into before any transfer is made. Every time the transfer will involve a lot of delay. Naturally, the company will say, and would want to know, whether the money has been received or not. I feel that this amendment No. 592, if the hon. Finance Minister would agree should not be put at all. I feel that it should not have been there. Even the Select Committee has not put in any amendment at all.

Shri C. D. Deshmukh: You want the clause to stand as it is?

Shri Tulsidas: Remove amendment No. 592.

Shri A. M. Thomas: Sub-clause (2) should be taken away.

Shri C. D. Deshmukh: There is no amendment. Your amendment is there. Not mine.

Mr. Chairman: May I know, whether, if this amendment is accepted, "it shall not be lawful for the company to register the transfer of any shares, unless..."? He says:

> "Provided that this sub-section shall not apply to transfers of shares held by a *bona fide* purchaser for value."

Shri A. M. Thomas: He has got amendment No. 547 also.

Shri N. C. Chatterjee: He wants there to delete lines 33 to 39, which means the whole of sub-clause (2) of clause 80.

Shri Tulsidas: I accept the amendment of the Finance Minister which he has proposed in No. 744.

Mr. Chairman: If Finance Minister's amendment is carried, your amendment need not be put.

Shri A. M. Thomas: The amendment now moved by the Finance Minister is definitely an improvement. There is no doubt about it, but *I would advise the deletion of the entire sub-clause* (2) *of clause* 80. As the Finance Minister pointed out, the inclusion of this sub-clause has created a scare among the people dealing in stock exchanges and also shareholders in general. I do not understand with what idea or object this sub-clause has been included by the Select Committee and according to me, no useful purpose would be served. *It does not at all serve the purpose of speedy collection of the estate duties.* The two objections which have been pointed out by the various stock exchanges in the country have been met by the amendment of the hon. Finance Minister. I concede. For example, it has been pointed out by the stock exchanges that clause 80(2) places an embargo on the transfer of any shares standing in the name of a deceased member of the Company and also places the onerous responsibility of satisfying every time a transfer is presented for registration that the shareholder is alive. In this way, the transfer of shares will become difficult and perhaps dangerous. I admit that this objection has been met by the hon. Finance Minister in his amendment which has been moved today because it has been stated that only if the officer concerned informs the assessee, then he will be liable, so that the Stock Exchanges or the transferees of the shareholders need not go and satisfy the companies concerned for transfer of the shares that the person is alive. *It has also been provided in this amendment that innocent purchasers also would be protected. I would submit that it will create needless difficulties, if sub-clause* (2) *were here, in the way of the smooth operation of the provisions of the Indian*

Companies Act. For example, we have got section 34 of the Indian Companies Act, which relates to the transfer of shares; section 35 deals with transfer of shares by legal representatives and section 38 gives the same powers to the Court for interfering in proper cases and rectifying registers and having the transferee's shares included in their register or books. Sir, it will put difficulties in the way of the operation of these sections of the Indian Companies Act if this sub-clause is allowed to stand. The satisfaction of the Joint Stock Company concerned, according to me, would be a dangerous provision to put in. Whether it has been for consideration or not is a matter for satisfaction by the Joint Stock Company. The Managing Director or the Board may say that no consideration has been paid

Moreover, in table A, a sample of the transfer form is given. I am referring to table 'A' Article 19. It states that all shares in the Company shall be transferred in the following form or in any usual or common form which the Directors shall approve, and the form is this.

> "AB.....is for consideration of the sum of.....paid to me by CD .....hereinafter called the said transferee do hereby transfer to the said transferee the share or shares numbered.....in the undertaking called..."

So, in the form itself it is provided that the transfer will be for consideration, so that the admission of the deceased person is there that he has received consideration. *What more is necessary for the satisfaction of the joint stock company?* And if any other standard is put in, my submission is that it will put difficulties in the way, as has been pointed out by Shri Tulsidas, and no useful purpose will be served.

Why should there be this sub-clause which will create complications? I believe that the Finance Minister will find his way to have the entire sub-clause deleted and not retain his amendment also, which of course follows.

Shri U. M. Trivedi: Sir, on a point of order. This comes in conflict with the constitutional provision laid down in article 19(1)(f). It clearly restricts the power vested in any person who holds property, because it says that "it shall not be lawful for a company formed and registered under the Indian Companies Act to register the transfer of any shares standing in the name of a deceased member of the company who dies after the commencement of this Act unless there is produced before it a certificate from the Controller that either the estate duty in respect thereof has been paid or will be paid or that none is due, as the case may be".

Article 19(1)(f) says that "all citizens shall have the right to acquire, hold and dispose of property".

Along with this there is a provision in article 19(5) which says that "nothing in sub-clauses (d), (e) and (f) of the said clause shall affect the operation of any existing law"—mind you, Sir, the provision is only with reference to 'existing law', a law existing at the time of the making of the Constitution—"in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe."

This is not such a provision, and it is not a provision of any existing law at the time the Constitution came into force. This is a new provision. It is being brought forward by a provision in this law which is going to come into existence hereafter. Therefore my submission is that any restriction that is put there is in conflict with the constitutional provision. Because, under Hindu Law his survivor immediately gets his right. Any

[Shhri U. M. Trivedi.]

Hindu survivor gets that right. It is there all right and he gets the right immediately to operate upon it. That, he is prevented from doing by virtue of this Act. That is to say, he is not allowed to dispose of the property or to hold the property.

Mr. Chairman: Is the right of survivorship saved?

Shri U. M. Trivedi: It is there.

Mr. Chairman: By this Bill?

Shri U. M. Trivedi: Yes. There is no doubt about it. The right of survivorship remains. It does not go. The only point is that the right of survivorship is modified by the provisions of this Bill. The right of survivorship has not gone. It will remain. They have tried their level best to destroy it. For those who have not the good fortune to hold property worth Rs. 50,000, the right of survivorship still remains. A person who holds a hundred rupee share or a two-hundred rupee share in any company will be restricted. He is entitled to get that property in his hands which he would ordinarily get. No further certificate is necessary for him to be produced. This clause says: It would not be lawful for the company to do this. That means a barrier is put up by law on the company exercising that right and on the individual who holds that property exercising his right to dispose of the share. This is an unlawful restriction which comes into conflict with the provisions of article 19(1)(f).

Shri N. C. Chatterjee: Sir, I want to point out that this is illegal for another reason. This is outside the legislative competence of the Estate Duty Bill. You know, Sir, that we are legislating with reference to the Seventh Schedule, List I, item 87, estate duty. What is an estate duty is prescribed and defined by the Constitution in article 366, para (9) which says:

> "'estate duty' means a duty to be assessed on or by reference to the principal value, ascertained in accordance with such rules as may be prescribed by or under laws made by Parliament or the Legislature of a State relating to the duty, of all property passing upon death or deemed, under the provisions of the said laws, so to pass;".

What right has Parliament to say that the limited company, whose shares have been transferred by A to B, after his death, will not register the shares unless some certificate is produced. They have no right. That would be repugnant to the Constitution

Mr. Chairman: The hon. Member was referring to some articles in the Constitution? What are they?

Shri N. C. Chatterjee: I am pointing out that you are legislating with reference to the Seventh Schedule, Union List, item 87 that is estate duty in respect of property other than agricultural land. Now, you have got the power in respect of agricultural land also by delegation from the States. But it is an estate duty. This is a Bill with regard to the levy of estate duty and the collection of estate duty. That is the preamble; that is the scope of the legislation. If you kindly turn to article 366, you find the definition of estate duty in para (9). That is a duty to be assessed on or by reference to the principal value, ascertained in accordance with such rules as may be prescribed by or under laws made by Parliament. The Parliament is entitled to make laws or frame rules with regard to the determination or assessment of the principal value with reference to which the duty shall be levied. What right has this Parliament to put an embargo on transfer of property? The property has been transferred. You know the Privy Council

has laid down clearly that shares are goods. Under the Sale of Goods Act, on transfer and delivery, the title is complete. Therefore the property has passed from A to B on the shares being properly endorsed and made over to the transferee. What right has Parliament to say that although the title has passed, I won't allow the company to recognise the transfer. You know, Sir, that the essential ingredient of the right which the transferee gets on the transfer of shares is to be put on the register. Unless he is put there, he cannot get the dividend; he cannot vote, he cannot participate in the annual meetings; he cannot exercise his rights as a member. What right has this Parliament to say: he has become the transferee, but I won't allow it and I will call upon the company not to allow him to be put on the register. It is a gross violation of the cardinal principle of the law of Sale of Goods and the Companies Act. You have no power to do so. We are legislating with reference to a particular item. That is the scope of the Bill.

Shri A. M. Thomas: Against public policy also.

Shri N. C. Chatterjee: Against public policy also. And against negotiability. That is a cardinal principle. Apart from that, is it within the scope of this Bill and Parliament's competence? We are legislating with reference to a particular item, merely estate duty.

Shri A. M. Thomas: What is the benefit?

Shri N. C. Chatterjee: It has been held that it is not very desirable. But, apart from that, I am raising this point that it is beyond the competence and it would not be *intra vires* of this Parliament. It will be completely *ultra vires* and it will be an illegal piece of law.

Some Hon. Members: It is now 7-30, Sir.

Shri C. D. Deshmukh: I can dispose of these two points. Dealing with the last point, it seems to me that this is quite relevant to the ambit of the Bill. One must remember that under clause 72(2) a rateable part of the duty is charged on moveable property. Therefore, as soon as the death occurs, there is a charge on the share, whosesoever property it may be. All that this clause seeks to do is to ensure that it will not be disposed of unless the estate duty is paid. It is one of the precautions that are taken, and especially it is a matter which leads to a great deal of difficulty where shares are transferred on a sort of blank transfer. And what one is concerned with, therefore, is the registered holder. That is the anchor from which one has to trace the title to the property. So, I think it is quite germane to the purposes of this Act.

Now, as regards this constitutional point, I do not see anything in it. Article 19(1)(f) of the Constitution says:

> "to acquire, hold and dispose of property".

Then Clause (5) of the article says:

> "Nothing in sub-clauses (d), (e) and (f) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevents the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of th general public or...".

Now, if any one says this is not in the interests of the general public, then I think he is against.....

Shri U. M. Trivedi: I am sorry the Finance Minister has not grasped the meaning of "existing law" which is defined in sub-clause (2).

Mr. Chairman: He is not referring to "existing law". He is referring to the latter portion.

Shri C. D. Deshmukh: Will the hon. Member read the whole of the sub-clause first? If he will grasp the

[Shri C. D. Deshmukh.]

words, then one can go to grasping the meaning. The words say: "also making any law in the general interest". And certainly it is common ground with all of us that it is in the general interest. Therefore, I do not think there is anything in this constitutional objection.

Mr. Chairman: If any other hon. Member wants to speak on this constitutional point, I am ready to hear him, because this is not a point which can be brushed aside very easily. To my mind the question arises: what will happen to those shares from which ultimately no estate duty is to be realised? Supposing a person who is very poor holds a share or two In the case of that person also some restrictions are being placed, and his shares will not be negotiable. So the question is a rather difficult one and similarly about joint shares. It is not so easy. At the same time, so far as this constitutional question is concerned, even there I find that only reasonable restrictions can be placed in respect of two matters: (1) in the interests of the general public, and (2) in the interests of any Scheduled Tribe. Now, the question for consideration will be whether in the meaning of the words "general interest" such restrictions for realisation of estate duty will be covered. So, these questions are open for discussion before the House. If any hon. Member wants to speak, I am ready to hear him. Otherwise, I will reserve judgment on this constitutional point

Shri S. S. More: On this point we will have a lot to say.

Mr. Chairman: It is already 7-30. I will now adjourn the House.

The House then adjourned till a Quarter Past Eight of the Clock on Monday, the 14th September, 1953.